HOUSE OF REPRESENTATIVES.

MONDAY, *December 14, 1908.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of Saturday was read and approved.

HOLIDAY RECESS.

Mr. PAYNE. Mr. Speaker, I offer the following resolution.

The SPEAKER. The gentleman from New York offers a resolution, which the Clerk will report.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 19, they stand adjourned until 12 o'clock m., Monday, January 4, 1909.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

CONSPIRACY AGAINST ALIENS.

Mr. PAYNE. Mr. Speaker, a parliamentary inquiry. I desire to inquire if the matter pending on Saturday is in order now?

The SPEAKER. It is unfinished business and in order.

Mr. PAYNE. Mr. Speaker, I move that it lie on the table.

The SPEAKER. The gentleman from New York moves that the appeal taken by the gentleman from Missouri [Mr. DE ARMOND] to the ruling of the Chair do lie on the table.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. DE ARMOND. Division, Mr. Speaker.

The House divided; and there were—ayes 117, noes 87.

Mr. DE ARMOND. The yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 170, nays 98, answered "present" 12, not voting 110, as follows:

YEAS—170.

Acheson	Ellis, Mo.	Kahn	Parker
Allen	Ellis, Oreg.	Keifer	Parsons
Ames	Englebright	Kennedy, Iowa	Payne
Anthony	Esch	Kennedy, Ohio	Pearre
Bannon	Fassett	Kinkaid	Perkins
Barchfeld	Foss	Kitchin, Claude	Pollard
Bartlett, Ga.	Foster, Ind.	Knapp	Pray
Bates	Foster, Vt.	Knopf	Reid
Beale, Pa.	Foulkrod	Knowland	Reynolds
Bede	French	Küstermann	Roberts
Bingham	Fuller	Langley	Rodenberg
Birdsall	Gaines, W. Va.	Lawrence	Russell, Tex.
Bonynge	Gardner, Mass.	Lindbergh	Scott
Boutell	Garner	Longworth	Sherley
Bradley	Gilhams	Loud	Slemp
Brownlow	Gillett	Loudenslager	Smith, Cal.
Burke	Goebel	Lovering	Smith, Iowa
Burton, Del.	Graham	Lowden	Smith, Mich.
Butler	Greene	McCall	Southwick
Calderhead	Gronna	McCreary	Sperry
Campbell	Guernsey	McGavin	Stafford
Capron	Haggott	McGuire	Stevens, Minn.
Caulfield	Hamilton, Mich.	McKinlay, Cal.	Sturgiss
Chaney	Hammond	McKinley, Ill.	Sulloway
Chapman	Harding	McKinney	Swasey
Cole	Haskins	McLachlan, Cal.	Tawney
Cook, Colo.	Haugen	McLaughlin, Mich.	Taylor, Ohio
Cooper, Pa.	Hawley	McMorran	Thistlewood
Cooper, Wis.	Hayes	Macon	Thomas, Ohio
Crumpacker	Henry, Conn.	Madison	Tirrell
Currier	Hepburn	Mann	Townsend
Cushman	Higgins	Marshall	Volstead
Dalzell	Holliday	Martin	Washburn
Darragh	Howell, N. J.	Moon, Pa.	Webb
Davidson	Howland	Moon, Tenn.	Weeks
Davis, Minn.	Hubbard, Iowa	Moore, Pa.	Weems
Dawson	Hubbard, W. Va.	Morse	Wheeler
Denby	Hull, Iowa	Murdock	Williams
Douglas	Humphrey, Wash.	Nelson	Wilson, Ill.
Draper	Humphreys, Miss.	Nye	Woodyard
Driscoll	James, Addison D.	Olcott	Young
Durey	Jenkins	Overstreet	
Edwards, Ky.	Jones, Wash.	Padgett	

NAYS—98.

Adair	De Armond	Hamlin	Lever
Ansberry	Denver	Hardwick	Livingston
Ashbrook	Dixon	Hardy	Lloyd
Barnhart	Ellerbe	Harrison	McDermott
Bartlett, Nev.	Estopinal	Hay	Maynard
Bell, Ga.	Ferris	Heflin	Moore, Tex.
Booher	Finley	Helm	Murphy
Brodhead	Fitzgerald	Henry, Tex.	Nicholls
Broussard	Floyd	Hobson	Page
Brundidge	Foster, Ill.	Houston	Patterson
Caldwell	Fulton	Hughes, N. J.	Peters
Candler	Gaines, Tenn.	James, Ollie M.	Pujo
Carlin	Garrett	Johnson, S. C.	Rainey
Carter	Gillespie	Jones, Va.	Randell, Tex.
Clark, Mo.	Godwin	Kipp	Rauch
Cox, Ind.	Gordon	Kitchin, Wm. W.	Richardson
Craig	Goulden	Lamb	Robinson
Cravens	Hackney	Lassiter	Rothermel
Davenport	Hamilton, Iowa	Lenahan	Rucker
Russell, Mo.	Sherwood	Stanley	Wallace
Ryan	Sims	Stephens, Tex.	Watkins
Sabath	Slayden	Taylor, Ala.	Weisse
Saunders	Smith, Mo.	Thomas, N. C.	Wilson, Pa.
Shackleford	Smith, Tex.	Tou Velle	
Sheppard	Sparkman	Underwood	

ANSWERED "PRESENT"—12.

Adamson	Brantley	Howard	Lee
Alexander, Mo.	Clayton	Hull, Tenn.	Sherman
Bennet, N. Y.	Glass	Kimball	Talbott

NOT VOTING—110.

Aiken	Davey, La.	Hitchcock	Needham
Alexander, N. Y.	Dawes	Howell, Utah	Norris
Andrus	Diekema	Huff	O'Connell
Barclay	Dwight	Hughes, W. Va.	Olmsted
Bartholdt	Edwards, Ga.	Jackson	Porter
Beall, Tex.	Fairchild	Johnson, Ky.	Pou
Bennett, Ky.	Favrot	Kelliher	Pratt
Bowers	Flood	Lafean	Prince
Boyd	Focht	Lamar, Fla.	Ransdell, La.
Brumm	Foelker	Lamar, Mo.	Reeder
Burgess	Fordney	Landis	Rhinock
Burleigh	Fornes	Laning	Riordan
Burleson	Fowler	Law	Small
Burnett	Gardner, Mich.	Leake	Snapp
Burton, Ohio	Gardner, N. J.	Legare	Spight
Byrd	Gill	Lewis	Steenerson
Calder	Goldfogle	Lilley	Sterling
Cary	Graff	Lindsay	Sulzer
Cassel	Granger	Lorimer	Vreeland
Clark, Fla.	Gregg	McHenry	Waldo
Cockran	Griggs	McLain	Wanger
Cocks, N. Y.	Hackett	McMillan	Watson
Conner	Hale	Madden	Wiley
Cook, Pa.	Hall	Malby	Willett
Cooper, Tex.	Hamill	Miller	Wolf
Coudrey	Hill, Conn.	Mondell	Wood
Cousins	Hill, Miss.	Mouser	
Crawford	Hinshaw	Mudd	

So the appeal was laid on the table.

The following pairs were announced:

For this session:

Mr. WANGER with Mr. ADAMSON.

Mr. BENNET of New York with Mr. FORNES.

Mr. SHERMAN with Mr. RIORDAN.

Until further notice:

Mr. PORTER with Mr. AIKEN.

Mr. ALEXANDER of New York with Mr. BEALL of Texas.

Mr. ANDRUS with Mr. ALEXANDER of Missouri.

Mr. BURTON of Ohio with Mr. BURGESS.

Mr. DWIGHT with Mr. BURNETT.

Mr. COCKS of New York with Mr. BYRD.

Mr. DAWES with Mr. COCKRAN.

Mr. FOCHT with Mr. COOPER of Texas.

Mr. FORDNEY with Mr. CRAWFORD.

Mr. GARDNER of New Jersey with Mr. DAVEY of Louisiana.

Mr. GRAFF with Mr. FLOOD.

Mr. HALE with Mr. GILL.

Mr. HILL of Connecticut with Mr. GRANGER.

Mr. HINSHAW with Mr. GLASS.

Mr. HOWELL of Utah with Mr. GREGG.

Mr. HUGHES of West Virginia with Mr. HACKETT.

Mr. LAFEAN with Mr. HAMILL.

Mr. LANDIS with Mr. HITCHCOCK.

Mr. LANING with Mr. JOHNSON of Kentucky.

Mr. MCMILLAN with Mr. KELIHER.

Mr. MADDEN with Mr. LEAKE.

Mr. MALBY with Mr. LEWIS.

Mr. MILLER with Mr. KIMBALL.

Mr. MONDELL with Mr. LINDSAY.

Mr. MOUSER with Mr. MCLAIN.

Mr. NEEDHAM with Mr. O'CONNELL.

Mr. NORRIS with Mr. LEE.

Mr. OLMSTED with Mr. POU.

Mr. PRINCE with Mr. PRATT.

Mr. REEDER with Mr. RANSDELL of Louisiana.

Mr. SNAPP with Mr. RHINOCK.

Mr. STEENERSON with Mr. SMALL.

Mr. STERLING with Mr. SPIGHT.

Mr. VREELAND with Mr. SULZER.

Mr. WATSON with Mr. WILLETT.

Mr. FOELKER with Mr. WILEY.

Mr. HALL with Mr. WOLF.

Mr. GARDNER of Michigan with Mr. BOWERS.

Mr. BARTHOLDT with Mr. GOLDFOGLE.

Mr. COUSINS with Mr. HOWARD.

Mr. CALDER with Mr. FAVROT.

Mr. COOK of Pennsylvania with Mr. HULL of Tennessee.

Mr. COUDREY with Mr. GRIGGS.

Mr. DIEKEMA with Mr. CLARK of Florida.

Mr. FAIRCHILD with Mr. LAMAR of Florida.

Mr. CONNER with Mr. LEGARE.

Mr. BURLEIGH with Mr. BRANTLEY.
Mr. MUDD with Mr. TALBOTT.
Mr. HUFF with Mr. CLAYTON.
For the balance of the day:
Mr. LORIMER with Mr. HILL of Mississippi.
Mr. LAW with Mr. LAMAR of Missouri.
Mr. WALDO with Mr. MCHENRY.
Mr. CARY with Mr. EDWARDS of Georgia.
The result of the vote was then announced as above recorded.

Mr. KEIFER. Mr. Speaker, I ask unanimous consent to be allowed to print in the RECORD some remarks, less than ten minutes in length of delivery, on this question which is just laid on that table.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

DEALING IN FUTURES.

Mr. HENRY of Texas. Mr. Speaker, I desire to renew the request I made the other day for a change of reference of a bill. It is the bill (H. R. 22338) to prohibit dealing in future contracts on agricultural products by forbidding the use of mail and interstate commerce facilities and to prevent sending fictitious prices made on exchanges. I made this request the other day, and the gentleman from Nebraska [Mr. POLLARD] asked me to let it go over. This is a very important matter, and last session, my recollection is, it was referred to the Committee on the Judiciary. I have made a few mere verbal changes, adding a new section as well, and I desire that the reference of this bill be changed from the Committee on Agriculture to the Committee on the Judiciary.

The SPEAKER. The gentleman asks unanimous consent for change of reference of the bill indicated from the Committee on Agriculture to the Committee on the Judiciary.

Mr. POLLARD. Mr. Speaker, since the gentleman called the bill up the other day I have taken occasion to look over the files of our committee, and I find the Committee on Agriculture has four or five bills dealing with this same subject, and in view of that fact and the further fact, as I am informed by the chairman of the committee, that the Committee on Agriculture expects to take up this question and have hearings on the merits of the proposition, I am inclined to object.

Mr. HENRY of Texas. Now, if the gentleman will withhold his objection just a minute, and will give me assurance that there shall be hearings on this bill and kindred measures during this session, or some time, I have no objection to letting it go. All I am anxious for is that there shall be hearings on the subject-matter of the legislation.

The SPEAKER. The gentleman from Nebraska objects.

RESIGNATION OF COMMITTEE ASSIGNMENTS.

The SPEAKER laid before the House the following personal requests:

Mr. HIGGINS asks to be excused from further service on the Committee on Industrial Arts and Expositions.

HOUSE OF REPRESENTATIVES,
Washington, December 14, 1908.

To the Speaker of the House of Representatives:

I hereby resign from the Committee on Naval Affairs.
I have the honor to be,
Yours, respectfully, W. W. KITCHIN.

HOUSE OF REPRESENTATIVES,
Washington, December 14, 1908.

To the Speaker of the House of Representatives:

I hereby tender my resignation as a member of the Committees on Indian Affairs and on Elections No. 3.
I have the honor to be,
Respectfully, yours, CLAUDE KITCHIN.

The SPEAKER. Without objection these gentlemen are excused from further service on those committees.

COMMITTEE ASSIGNMENTS.

The SPEAKER. The Chair announces the following committee assignments.

The Clerk read as follows:

Mr. CASSELL, Committee on Accounts and Committee on Militia.
Mr. GUERNSEY, Committee on Banking and Currency and Committee on the Territories.
Mr. SWASEY, Committee on the Merchant Marine and Fisheries and Committee on Revision of Laws.
Mr. FOELKER Committee on the Census and Committee on Election of President, Vice-President, and Representatives in Congress.
Mr. MARTIN, Committee on Industrial Arts and Expositions.
Mr. WATSON, Committee on the Territories.
Mr. CLAUDE KITCHIN, Committee on Naval Affairs.
Mr. WILEY, Committee on Military Affairs and Committee on Militia.

AFFAIRS IN THE TERRITORIES.

The SPEAKER laid before the House the bill (H. R. 21957) relating to affairs in the Territories, with sundry Senate amendments.

Mr. HAMILTON of Michigan. Mr. Speaker, I move that the House disagree to the Senate amendments, and ask for a conference.

The motion was agreed to.

The Chair appointed as conferees on the part of the House Mr. HAMILTON of Michigan, Mr. CAPRON, and Mr. LLOYD.

EXPENDITURES UNDER THE DEPARTMENT OF STATE.

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Expenditures in the State Department and ordered to be printed:

To the House of Representatives:

I transmit herewith a report by the Secretary of State, with accompanying papers, of expenditures under the Department of State for the fiscal year ended June 30, 1908, as required by law.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *December 14, 1908.*

REPORT OF THE SECRETARY OF AGRICULTURE.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Agriculture and ordered printed.

To the Senate and House of Representatives:

I transmit herewith the annual report of the Secretary of Agriculture covering the operations of the department for the year 1908.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *December 14, 1908.*

THE BERNE COPYRIGHT CONVENTION.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Patents and ordered printed.

To the Senate and House of Representatives:

I transmit herewith for the information of Congress a copy of the report by the register of copyrights of the Library of Congress on the proceedings of the International Congress for the Revision of the Berne Copyright Convention, held at Berlin, Germany, from October 14 to November 14, 1908, which Congress he attended as the delegate of the United States.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *December 14, 1908.*

AFFAIRS IN PORTO RICO.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Insular Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit herewith a report from Mr. Robert Bacon, Assistant Secretary of State, and Maj. Frank McIntyre, U. S. Army, of their mission to Porto Rico, under my oral instructions, to meet with representatives of the insular government of Porto Rico and of the Roman Catholic Church in that island with a view to reaching some equitable settlement of the questions pending between that church on the one hand and the United States and the people of Porto Rico on the other.

The nature of these questions and the conditions of the controversy at the time of the meeting of the commission at San Juan are fully and clearly stated in the report, as is the basis for an equitable and complete settlement of all the questions in controversy unanimously agreed on by the members of the commission in a memorandum signed on August 12, 1908.

It will be seen that under the terms of this memorandum the United States is to pay to the Roman Catholic Church in Porto Rico the sum of $120,000 in full settlement of all claims of every nature whatsoever relative to the properties claimed by the church which are now in the possession of the United States and which are defined in the report.

The properties specifically in question form part of the land reserved for military purposes in San Juan and are now occupied by United States troops. I am informed that they are well suited to such purposes, and that to provide for the garrison of San Juan elsewhere would require the expenditure of many times the sum involved in the proposed settlement.

This basis of agreement has received my entire approval, and I trust that the Congress will see the great importance of the matter and will, at its present session, pass such legislation as is necessary to give the basis of the agreement effect on the part of the United States.

The legislative assembly of Porto Rico has already, by a joint resolution approved September 16, 1908, ratified the basis of agreement recommended by the commissioners in so far as it affects that government, and enacted the necessary legislation to make it effective.

THEODORE ROOSEVELT.

MILITARY EDUCATION IN CIVIL INSTITUTIONS.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with accompanying papers, referred to the Committee on Military Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War submitting draft of a bill to promote military education in civil institutions of learning in the United States. I approve the recommendation of the Secretary of War and ask for its favorable consideration by the Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *December 14, 1908.*

PROMOTION OF RIFLE PRACTICE IN PUBLIC SCHOOLS, ETC.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Military Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War submitting draft of a bill to promote rifle practice in public schools, colleges, universities, and civilian rifle clubs. I approve the recommendation of the Secretary of War and ask for its favorable consideration by the Congress.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *December 14, 1908.*

INTERNATIONAL TELEGRAPHIC UNION.

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Affairs and ordered printed.

To the Senate and House of Representatives:

I transmit to the Congress as a matter of public interest a copy of the report of the American delegates to the tenth conference of the International Telegraphic Union, which opened at the city of Lisbon, Portugal, on May 4, 1908.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *December 14, 1908.*

DISTRICT OF COLUMBIA BUSINESS.

Mr. SMITH of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of District business.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of District of Columbia business, with Mr. TOWNSEND in the chair.

TOBACCO LICENSE, DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Chairman, I call up the bill (H. R. 16066) providing for the payment of an annual license tax by dealers in all forms of manufactured tobacco in the District of Columbia.

The bill was read, as follows:

Be it enacted, etc., That an annual license tax of $12 is hereby imposed upon dealers in cigars, smoking or chewing tobacco, cigarettes, or any form of manufactured tobacco, the license year to begin November 1 and to terminate October 31 in each year.

Mr. SMITH of Michigan. Mr. Chairman, the report is so short and so fully explains the bill that I ask to have it read.

The report (by Mr. TAYLOR of Ohio) was read, as follows:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 16066) providing for the payment of an annual license tax by dealers in all forms of manufactured tobacco in the District of Columbia, report the same back to the House with the recommendation that it do pass.

The license law now in force, found in paragraph 46 of section 7 of the act approved July 1, 1902, provides for an annual license tax of $12 on "cigar dealers" only. The proposed legislation is intended to extend the same provision to dealers in "smoking or chewing tobacco, cigarettes, or any form of manufactured tobacco." This is the only change proposed in the law.

The bill as reported has the approval of the Commissioners of the District of Columbia, who ask for its passage, as appears by the following letter:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, January 28, 1908.

SIR: The Commissioners of the District of Columbia have the honor to transmit herewith a draft of a bill entitled "A bill providing for the payment of an annual license tax by dealers in all forms of manufactured tobacco in the District of Columbia," and recommend its early enactment.

The object of this bill is to extend the scope of liability for license tax to sell manufactured tobacco to dealers in all forms of that product. At present the license tax for tobacco selling is restricted to "cigar dealers," the annual charge for which is $12, as reiterated in the proposed measure herewith submitted.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

Hon. S. W. SMITH,
Chairman Committee on District of Columbia,
House of Representatives.

Mr. SMITH of Michigan. Mr. Chairman, unless there is some question, I ask for a vote.

Mr. MANN. Will the gentleman yield for a question?

Mr. SMITH of Michigan. I yield to the gentleman.

Mr. MANN. Have the committee considered the proposition of charging a higher license tax upon cigarette dealers than is charged upon cigar and other tobacco dealers?

Mr. SMITH of Michigan. I do not know that they specifically took that under consideration.

Mr. MANN. Of course the gentleman is aware that in some States of the Union the sale of cigarettes is absolutely prohibited, and in nearly all or many of the States and municipalities a high license tax is charged for the selling of cigarettes. Now, here is a proposition to make it $1 a month for the privilege of selling coffin nails.

Mr. SMITH of Michigan. That is $12 a year higher than it was before.

Mr. MANN. That may be, but the subject is up.

Mr. SMITH of Michigan. Yes.

Mr. MANN. Why should it not be a great deal more than $12 a year? It ought to be not less than $12 a month. Every little establishment in Washington sells cigarettes and will under this.

Mr. WILSON of Illinois. Will the gentleman yield for a question?

Mr. SMITH of Michigan. Yes.

Mr. WILSON of Illinois. Have you ever considered the prohibition of the sale of cigarettes in the District of Columbia?

Mr. SMITH of Michigan. The District Committee have not considered it of late. At least the question has not been before us in that form.

Mr. WILSON of Illinois. Do not you think it would be a good idea for the committee to do that?

Mr. SMITH of Michigan. I have no doubt they would consider it if somebody would introduce a bill and bring it before us for consideration.

Mr. DAWSON. May I ask the gentleman a question?

Mr. SMITH of Michigan. Yes.

Mr. DAWSON. Is there any limitation as to the sale of cigarettes to minors, or boys under age, in the District of Columbia?

Mr. SMITH of Michigan. I do not recall the exact words of the statute at the moment, but I think there is such a provision. We can look it up and see.

Mr. MANN. Mr. Chairman, I move to strike out, in line 5, the word "cigarette" in order that I may offer another amendment, increasing the license tax upon cigarette dealers.

The CHAIRMAN. The Clerk will report the proposed amendment.

The Clerk read as follows:

In line 5, strike out the word "cigarettes."

The question was taken on the amendment, and the Chairman announced that the noes appeared to have it.

Mr. MANN. Division!

Pending the division,

Mr. BARTLETT of Georgia. May I ask the gentleman from Illinois why cigarette dealers should be exempted from paying this license?

Mr. MANN. The gentleman has evidently just come in. I stated that the proposition was to strike out, for the purpose of offering an amendment charging a higher license on cigarette dealers.

Mr. BARTLETT of Georgia. I did not hear the gentleman's statement. That is the reason I want to know. The gentleman proposes to make the license higher?

Mr. MANN. I propose to offer an amendment to make it much higher in case this amendment prevails.

Mr. BARTLETT of Georgia. I want to vote for that amendment if the gentleman will offer it.

Mr. MANN. Certainly.

Mr. CLARK of Missouri. Suppose you strike this out and then the committee votes down your amendment, where will you be?

Mr. DOUGLAS. No better off than we are now.

Mr. CLARK of Missouri. Why not offer an amendment combining the two propositions?

Mr. MANN. I am perfectly willing to do that. I ask leave to withdraw my amendment.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. MANN. And at the end of the bill as now printed I offer an amendment, which I ask the Clerk to report.

The Clerk read as follows:

Insert after line 7, on page 1, the following:

"That an annual license tax of $100 is hereby imposed upon dealers in cigarettes, the license year to begin November 1 and to terminate October 31 in each year."

Mr. CLARK of Missouri. Mr. Chairman, I would like to have the Clerk read the part to be stricken out and then read the amendment.

The CHAIRMAN. The Chair is informed that there is no proposition to strike out anything in this amendment. It is an amendment to the end of the bill.

Mr. MANN. Of course, Mr. Chairman, if that amendment were adopted, that would strike out the word "cigarette" where it now stands.

Mr. WILSON of Illinois. Why not include also "cigarette papers?"

Mr. SMITH of Michigan. Does that include also striking out the word "cigarette?"

Mr. MANN. I will include in the amendment to strike out the word "cigarettes," although nobody makes the point of order on it, and insert the other amendment at the end of the section as now printed.

Mr. MACON. How about cigarette papers?

Mr. MANN. It has been suggested that the words "cigarette papers" ought to be added to the end after the word "cigarettes," so as to read "cigarettes or cigarette papers."

Mr. WILSON of Illinois. "And."

Mr. MANN. "Or" is the proper word. I ask unanimous consent that the words "or cigarette papers" be added after the word "cigarettes."

The CHAIRMAN. The gentleman asks unanimous consent that the words "or cigarette papers" may be added to his amendment. Is there objection?

There was no objection.

Mr. CLARK of Missouri. Mr. Chairman, I will ask the Clerk to read the amendment as it would now read if adopted.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The Clerk read as follows:

Strike out in line 5 the word "cigarettes" and add at the end of the bill the following:

"That an annual license tax of $100 is hereby imposed upon dealers in cigarettes or cigarette papers, the license year to begin November 1 and to terminate October 31 in each year."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question now recurs on laying the bill aside with a favorable recommendation.

The question was taken, and the bill was ordered to be laid aside with a favorable recommendation.

DISBURSING OFFICER, GOVERNMENT HOSPITAL FOR THE INSANE.

Mr. SMITH of Michigan. Mr. Chairman, I call up the bill (H. R. 12899) to provide for a disbursing officer for the Government Hospital for the Insane, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That section 4839 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4839. The chief executive officer of the Government Hospital for the Insane shall be a superintendent, who shall be appointed by the Secretary of the Interior, shall be entitled to a salary of $4,000 a year, and shall give bond for the faithful performance of his duties in such sum and with such securities as may be required by the Secretary of the Interior. The superintendent shall be a well-educated physician, possessing competent experience in the care and treatment of the insane; he shall reside on the premises and devote his whole time to the welfare of the institution; he shall, subject to the approval of the board of visitors, appoint a responsible disbursing agent for the institution, who shall give a bond satisfactory to the Secretary of the Interior, and said superintendent shall engage and discharge all needful and useful employees in the care of the insane and all laborers on the farm and determine their wages and duties; he shall also be an ex officio secretary of the board of visitors. The said disbursing agent, under the direction of the superintendent, shall have the custody of and pay out all moneys appropriated by Congress for the Government Hospital for the Insane, or otherwise received for the purposes of the hospital, and all moneys received by the superintendent in behalf of the hospital or its patients, and keep an accurate account or accounts thereof. The said disbursing agent shall deposit in the Treasury of the United States, under the direction of the superintendent, all funds now in the hands of the superintendent or which may hereafter be intrusted to him by or for the use of patients, which shall be kept in a separate account; and the said disbursing agent is authorized to draw therefrom, under the direction of the said superintendent, from time to time, under such regulations as the Secretary of the Interior may prescribe, for the use of such patients, but not to exceed for any one patient the amount intrusted to the superintendent on account of such patient. During the time that any pensioner shall be an inmate of the Government Hospital for the Insane, all money due or becoming due upon his or her pension shall be paid by the pension agent to the superintendent or disbursing agent of the hospital, upon a certificate by such superintendent that the pensioner is an inmate of the hospital and is living, and such pension money shall be by said superintendent or disbursing agent disbursed and used, under regulations to be prescribed by the Secretary of the Interior, for the benefit of the pensioner, and, in case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any, in the order named, and to pay his or her board and maintenance in the hospital, the remainder of such pension money, if any, to be placed to the credit of the pensioner and to be paid to the pensioner or the guardian of the pensioner in the event of his or her discharge from the hospital; or, in the event of the death of said pensioner while an inmate of said hospital, shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife nor minor children, then the said unexpended balance to his or her credit shall be applied to the general uses of said hospital: *Provided*, That in the case of any pensioner transferred to the hospital from the National Home for Disabled Volunteer Soldiers any pension money to his credit at said Home at the time of his said transfer shall be transferred with him to said hospital and placed to his credit therein, to be expended as hereinbefore provided, and in case of his return from said hospital to the Home any balance to his credit at said hospital shall in like manner be transferred to said Home, to be expended in accordance with the rules established in regard thereto, and this provision shall also be applicable to all unexpended pension money heretofore paid to the officers of said hospital on account of pensioners who were but are not now inmates thereof."

SEC. 2. That all provisions of law inconsistent with this act are hereby repealed.

Mr. SMITH of Michigan. Mr. Chairman, I ask to have the report and the letters attached thereto in this matter read also.

The CHAIRMAN. Without objection the Clerk will read the report.

There was no objection, and the Clerk read as follows:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 12899) to provide for a disbursing officer for the Government Hospital for the Insane, report the same back to the House with the recommendation that it do pass.

This bill merely provides for a disbursing officer for the Government Hospital for the Insane.

No additional expense is entailed, and the creation of the position of disbursing officer will materially assist the proper administration of the affairs of the hospital.

Appended are letters from the Secretary of the Interior, the superintendent of the hospital, and the Commissioners, approving the bill.

DEPARTMENT OF THE INTERIOR,
Washington, January 13, 1908.

SIR: I have the honor to acknowledge your letter of the 10th instant, inclosing House bill 12899, entitled "To provide for a disbursing officer for the Government Hospital for the Insane," and requesting my opinion on same.

In reply I would say that this bill was prepared by Mr. OLCOTT, who was the chairman of the committee of the last Congress that investigated the management of the Government Hospital for the Insane. It was one of the recommendations of that committee that the superintendent should be empowered to appoint a disbursing officer for the hospital, so that he might be relieved of the duties and responsibilities pertaining to that office. It has been the unanimous opinion of the board of visitors of the Government Hospital for the Insane for some years that this should be done, and the present bill is drawn with that end in view.

In my opinion it is a good bill and should be passed.

Respectfully,

JAMES RUDOLPH GARFIELD,
Secretary.

Hon. SAMUEL W. SMITH,
Chairman of Committee on the District of Columbia,
House of Representatives.

GOVERNMENT HOSPITAL FOR THE INSANE,
Washington, D. C., February 29, 1908.

SIR: I have your letter of the 22d instant inclosing copy of House bill 12899, together with a letter from Commissioner Macfarland containing his opinions on same. You ask for my opinion of this bill.

Section 4839 of the Revised Statutes of the United States, which it is sought to amend by this bill, is a portion of the organic act creating the Government Hospital for the Insane. This act was passed something over fifty years ago, and the hospital that was created thereby was of course comparatively a very small institution. Under these circumstances it was eminently proper that the superintendent should be the responsible disbursing officer thereof. Since that time, however, the hospital has constantly grown until it is now one of the large hospitals for the insane in this country, and I believe of all the public institutions for the care of the insane it has the most complex relations. In the natural course of the growth the duties of the superintendent have become gradually more numerous, and the time which he once had to devote to fiscal matters has now to be distributed over a large number of problems. In fact, I think I might say without exaggerating that the work of the office of superintendent has increased four or five times in quantity and correspondingly in complexity in the four and a half years that I have been in charge. The natural result of all this is that while the superintendent is held by the statute to be the responsible disbursing agent, and as a matter of fact signs all pay rolls, checks, and vouchers, still the absolute necessities of the situation demand that the responsibility for the proper keeping of the accounts and the making out of the vouchers and the like be delegated to others. It would seem, therefore, that the bill under consideration not only will have the effect of relieving the superintendent from the work and responsibilities incident to his office as disbursing officer, but will also have the effect of affording additional protection to the United States by having the responsibility for the custody of the funds rest with the individual who has their immediate handling and the keeping of the accounts.

During the past four and a half years the administrative department of the hospital has been in process of reorganization. This reorganization is now practically completed, the only single thing of importance necessary to finish the work being the authority granted in the proposed bill for the superintendent to appoint a responsible disbursing officer.

The bill, in my opinion, is a good one. It provides for a change in the administrative department of the hospital, which is much needed and which will redound to the interests of the institution and will strengthen its fiscal responsibility. It is furthermore a step which is thoroughly justified by precedent, many institutions of this sort having treasurers. I think the bill should pass.

Respectfully,

WM. A. WHITE,
Superintendent.

Hon. J. VAN VECHTEN OLCOTT,
House of Representatives.

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, February 21, 1908.

DEAR SIR: The Commissioners of the District of Columbia have the honor to state, in response to your request for their views upon House bill 12899, "To provide for a disbursing officer for the Government Hospital for the Insane," that they know of no objection to the passage of the bill, although the legislation proposed does not seem in any way to relate to the question of disbursement of appropriations for the District of Columbia nor affect in any way the relations of the District to the Government Hospital for the Insane.

Congress provides annual and specific appropriations in the District appropriation acts for the support in the Government Hospital for the Insane of the patients committed to that institution upon the order of the executive authority of the District of Columbia. Monthly statements are submitted to this office by the authorities of the said institution, showing the cost for that period, payable by the District of Columbia. This statement is used as a basis of a voucher audited and approved by the auditor of the District of Columbia and certified to by the commissioners, and becomes the authority for the Treasury Department to debit the District of Columbia appropriation and credit the appropriation provided by the General Government for the support of the Government Hospital for the Insane, which is merely a bookkeeping entry, and does not involve the handling or transfer of cash, the expenditures on account of that portion of the expenses of the institution being primarily paid from the appropriation provided by the United States and reimbursed thereto monthly, as above cited.

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

Hon. J. VAN VECHTEN OLCOTT,
House of Representatives.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

Mr. JOHNSON of South Carolina. O Mr. Chairman, I wish to have some information in regard to it.

Mr. SMITH of Michigan. Mr. Chairman, I yield to the gentleman from New York [Mr. OLCOTT].

Mr. JOHNSON of South Carolina. Mr. Chairman, there has been absolutely no explanation of this bill, and if nobody is going to explain it, I want to ask somebody who knows something about it some questions.

Mr. OLCOTT. I will be glad to explain the bill.

Mr. JOHNSON of South Carolina. I want to find out from the gentleman who has been disbursing the funds of this institution heretofore.

Mr. OLCOTT. The superintendent. He is the only person who has been entitled to sign checks.

Mr. JOHNSON of South Carolina. Is the superintendent not provided with an ample force of clerks, under the appropriation bills, to do all this work?

Mr. OLCOTT. This does not add in any way to appropriations. It merely makes an assistant of his a disbursing officer, to enable him to sign checks when it is necessary for the superintendent to be away.

Mr. JOHNSON of South Carolina. Is that assistant who is now acting as clerk receiving a salary of $4,000 a year?

Mr. OLCOTT. The superintendent himself receives $4,000 a year. The clerk receives much less. He gets no additional salary; there is no increase in the appropriation. He has to give a bond in the same amount as the superintendent, and is merely put in a position where he can sign checks as well as the superintendent.

Mr. JOHNSON of South Carolina. Does not that fix the compensation of the disbursing officer at $4,000?

Mr. OLCOTT. I do not think so. I would like to say in regard to this bill that with the exception of line 9, on page 2, to line 1, on page 3, is exactly the law as it exists now. That provides merely that this disbursing officer shall have the power on giving the bond satisfactory to the Secretary of the Interior, without increase in salary at all, without any increase in the appropriation, in the necessary absence or during the time that the superintendent has other work to do, to sign checks, so that the business of the hospital need not stop until the superintendent arrives.

Mr. TAWNEY. Has this man the exclusive right or will he have the exclusive right of disbursing the funds of that institution?

Mr. OLCOTT. He will not; the superintendent still retains his present powers. It merely gives some other person the power of signing checks and transacting that business for the asylum.

Mr. TAWNEY. Well, on page 2, line 9, it reads:

The said disbursing agent, under the direction of the superintendent, shall have the custody of and pay out all moneys appropriated by Congress for the Government Hospital for the Insane——

Mr. OLCOTT. Yes.

Mr. TAWNEY (continuing)—

or otherwise received for the purposes of the hospital.

Now, that gives him exclusive control over the moneys.

Mr. OLCOTT. Under the direction of the superintendent. If the gentleman from Minnesota will notice a few lines above, there is a provision that the bond shall be satisfactory to the Secretary of the Interior, or exactly as now provided in the case of the superintendent.

Mr. TAWNEY. What salary does the superintendent receive?

Mr. OLCOTT. My impression is he receives $4,000.

Mr. TAWNEY. What salary is this man to receive?

Mr. OLCOTT. Just what he is receiving now; he is assistant to the superintendent.

Mr. TAWNEY. Why can not the disbursing officer for the Interior Department make the disbursements for that institution?

Mr. OLCOTT. Because that has not been done in the case of this institution; you would have to change entirely the conduct of the institution. Everything has always been paid over directly, and checks have been drawn by the superintendent himself upon the fund that is appropriated by Congress. He makes his drafts directly upon the appropriated amount.

Mr. FITZGERALD. Will the gentleman point out what part of this fixes the compensation of this new officer?

Mr. OLCOTT. There is no new officer. There is simply denominated a certain person connected with the institution as a disbursing officer; there is no additional appropriation called for.

Mr. FITZGERALD. What part of the bill is new?

Mr. OLCOTT. The part that is new is——

Mr. MANN. Creating him a disbursing agent; that is what is new.

Mr. OLCOTT—

Said disbursing agent under the direction of the superintendent—

That is beginning line 10 with the word "thereof" on line 16.

Mr. MANN. And the authority to appoint the disbursing agent——

Mr. OLCOTT. That is true.

Mr. MANN—

He shall reside on the premises and devote his whole time to the welfare of the institution; he shall, subject to the approval of the board of visitors, appoint a responsible disbursing agent for the institution who shall give a bond satisfactory to the Secretary of the Interior.

Mr. FITZGERALD. That is new?

Mr. OLCOTT. That is new.

Mr. FITZGERALD. So the compensation is not fixed?

Mr. OLCOTT. It is not.

Mr. MANN. That would be fixed by the appropriation act.

Mr. FITZGERALD. I understood from the report it was fixed.

Mr. OLCOTT. No. The report expressly says, and the letters of the superintendent, the Secretary of the Interior, and the Commissioners all agree, that no additional compensation is contemplated, that the disbursing officer will be one of the present employees of the institution, who will have to give bond that is subject to the approval of the Secretary of the Interior. There is no additional expense. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

FREE LECTURES.

Mr. SMITH of Michigan. Mr. Chairman, I call up the bill (H. R. 16977) for free lectures.

The CHAIRMAN. The gentleman from Michigan calls up the following bill, which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 16977) for free lectures.

Be it enacted, etc., That the board of education of the District of Columbia be, and it is hereby, authorized to maintain a course or series of free evening lectures: *Provided*, That such lectures shall be held in some of the public school buildings.

Mr. SMITH of Michigan. Mr. Chairman, I call for a reading of the report, as it is short.

The report was read, as follows:

The Committee on the District of Columbia, to which was referred the bill (H. R. 16977) for free lectures, report the same back to the House with the recommendation that it do pass.

The purpose of this legislation is sufficiently indicated in the bill itself—that is, the maintenance of a course or series of free evening lectures in some of the public school buildings.

A similar bill was recommended by this committee in the second session of the Fifty-ninth Congress (Rept. No. 6731, 59th Cong., 2d sess.), which passed the House but was not passed by the Senate.

This bill was submitted to the Commissioners of the District of Columbia, and received their approval, as appears by the following letter:

OFFICE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, March 9, 1908.

SIR: The Commissioners have the honor to recommend favorable action upon H. R. 16977, Sixtieth Congress, first session, entitled "A bill for free lectures," which was referred to them at your instance for examination and report.

This bill was recommended by the full committee on libraries and lectures of the board of education and approved by that board.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners,
District of Columbia.

Hon. S. W. SMITH,
Chairman of Committee on the District of Columbia,
House of Representatives.

Mr. MANN. Mr. Chairman——

Mr. SMITH of Michigan. Mr. Chairman, I yield to the gentleman from New York [Mr. OLCOTT].

Mr. MANN. Mr. Chairman, will the gentleman from New York inform the committee what is the proposition with regard to paying the expenses of these lecturers?

Mr. OLCOTT. That, I would say, would depend entirely on what appropriation is made by the Appropriations Committee when the District appropriation bill comes up.

Mr. MANN. So this is simply a peg upon which to hang an appropriation?

Mr. OLCOTT. I would say in connection with that that there was an amendment to the District of Columbia appropriation bill, providing for free lectures, with an appropriation, but that was stricken out on the point of order being raised by the gentleman from Minnesota, if I recollect correctly, and this is to prevent that point of order being successfully made, and then I presume the Committee on Appropriations and thereafter the Committee of the Whole, when that bill comes up for discussion, will determine how much is to be appropriated.

Mr. MANN. This indicates the policy which shall be pursued. Now, what is the plan that they have in view? What are these lectures to be about. How many lectures are there to be? Are we to maintain a corps of professional lecturers for the schools?

Mr. OLCOTT. Of course, that must be limited entirely by the amount of appropriation that is made. The amendment that I offered during the discussion of the District bill, I think during the last session, or possibly the second session of the Fifty-ninth Congress, was for an appropriation of $10,000. I think that there was an amendment made to my suggestion to reduce such amount to $1,500. I am not ready at this particular moment to give an exact statement as to how these free lectures shall be conducted, or as to how many of them there shall be. The suggestion that these lectures be held in a public-school building was made and quickly accepted, so that there will be no expense whatever for rent.

Mr. MANN. Since I have been in the House, as the gentleman knows, I have seen an appropriation of $10,000, or such a matter, for rural free delivery grow to $34,000,000, and no end in sight.

Mr. OLCOTT. I scarcely think it is probable that an appropriation for free lectures would grow to such large figures. As a matter of fact, in the city of New York they do appropriate somewhere between $150,000 and $200,000.

Mr. MANN. What is the principle over there? Do they hire lecturers?

Mr. OLCOTT. In certain cases they do, but in other cases they are delivered voluntarily.

Mr. MANN. Will my distinguished friend from Missouri and my distinguished friend from Indiana soon be delivering their series of lectures, which are very good ones and worth the money, here?

Mr. OLCOTT. I think there is no particular risk in leaving that matter in the hands of the board of education. They would scarcely desire to allow a political harangue under the guise of free lectures.

Mr. MANN. It would not be a political harangue from the gentleman from Missouri, because everything he says is worth hearing. But how far will we go in hiring these professional lecturers, and what will be the result after the final cost? We ought to know something about it.

Mr. OLCOTT. I think it is proper that we should leave the details of that to the board of education, and I think that they can be depended upon to do as boards of education in other cities of this country have done, namely, maintain a method of education for people who, by reason of age or by reason of business affairs, feeling their limitations as to their education, can obtain knowledge by attending these lectures that it is impossible for them to obtain in any other way.

Mr. MANN. The gentleman understands, of course, that that which is free is generally sought for by nearly everybody.

Mr. OLCOTT. I think that is true.

Mr. MANN. And it does not make any difference whether it is a lunch, a pink tea, or a bargain counter. If it is something that is practically free, everybody wants the benefit. And if you propose to have a series of free lectures here—entertainment, instruction, literary lectures, lectures on travel, something to please the people—it is a good deal like going back to the old Roman days, when the theory was to please the people and be elected to office. Now, how far would such a thing go? I think there ought to be some limitation.

Mr. OLCOTT. I think that the limitation will come when the Appropriation Committee comes to make an appropriation. I do not imagine it is our duty to prescribe exactly the details of how the lectures are to be conducted when we have a board of education whose duty it will be to look after that.

Mr. MANN. There might be a limitation in here of the cost to the Government of these lectures.

Mr. HULL of Iowa. Would not that come every year on the Appropriation Committee? They could not go beyond what the Committee on Appropriations would give them.

Mr. OLCOTT. I think I am right when I say that there is no one who is giving serious consideration to the general free public education, which is certainly believed in in the Federal Government as well as in the various state governments, who will not concede the fact that the lectures which have been delivered in various cities have been as valuable as anything that has been done for education.

Mr. MANN. Yes; but in all the other cities the people pay the bill. Here the people outside of the District pay half the bill.

Mr. OLCOTT. I understand that; but we are not going into the old question of who pays the expense of the District of Columbia. That is not germane now.

Mr. MANN. It is germane only to the extent as to how far the people here will urge Congress constantly to increase the appropriations for their free benefit at the expense of some one else.

Mr. OLCOTT. The only letter I have quoted in my report is from the president of the commissioners. The board of education has urged it for a considerable length of time. The Public Education Society, which is an entirely free and voluntary society, has urged it in the strongest possible terms. It is urged also by other people living here in the city of Washington who take an interest in education, not by those who desire to get something for nothing, but people who are interested in the best welfare of the city of Washington and its people.

Mr. SHERLEY. Will the gentleman inform me whether there are any night schools in the District of Columbia?

Mr. OLCOTT. There are night schools in the District of Columbia.

Mr. SHERLEY. Well, at those night schools these people whom you seek to accommodate who have no opportunity, ordinarily, to get an education, would have an opportunity.

Mr. OLCOTT. By attending these schools. They can attend the night schools except, I think, there are limitations as to the age of the persons who are admitted.

Mr. GILLETT. There is no limit of age.

Mr. OLCOTT. I thought there was.

Mr. GILLETT. There is not.

Mr. OLCOTT. Then I withdraw that statement.

Mr. SHERLEY. If there was any limitation we might possibly better serve the cause by liberalizing opportunities to attend the night schools than by providing for free lectures.

Mr. GILLETT. This is not a new proposition.

Mr. OLCOTT. Oh, no; not at all.

Mr. GILLETT. We have had it for a while.

Mr. GOULDEN. It is four years since we have had an appropriation.

Mr. GILLETT. We have had a test of them.

Mr. OLCOTT. We have.

Mr. GILLETT. Can the gentleman tell the numbers attending the lectures and the character of the lectures?

Mr. OLCOTT. I regret that I can not state that accurately.

Mr. GILLETT. There have been some lectures maintained by private people.

Mr. OLCOTT. I think so.

Mr. SHERLEY. Can the gentleman tell how many free lectures, day and night, are given in the District? Are there not more than in almost any other city of the United States?

Mr. OLCOTT. I do not think there are.

Mr. GOULDEN. Four years ago Congress appropriated $1,500 for this purpose.

Mr. OLCOTT. That was before I was here.

Mr. GOULDEN. That was four years ago. I attended several of the lectures at that time. They were well patronized, and in some instances people were turned away for want of room.

Mr. GILLETT. The gentleman says he attended the lectures. Where were the people turned away?

Mr. GOULDEN. From the Carnegie Library auditorium.

Mr. GILLETT. When was that?

Mr. GOULDEN. In February, 1905.

Mr. GILLETT. What was the subject?

Mr. GOULDEN. There were various historical subjects. I remember giving one of them myself. [Great laughter.] I do not mean that they were turned away because I happened to be a participant, but the lecture hall was so crowded that people were turned away on that and several other occasions.

Mr. MANN. May I ask the gentleman a question?

Mr. OLCOTT. I yield to the gentleman for a question.

Mr. MANN. Is one reason for bringing that proposition up now because free lectures by a certain gentleman are to cease because of the change of the administration soon?

Mr. OLCOTT. I had not thought of that.

Mr. GILLETT. Mr. Chairman, this subject was up before the Committee on Appropriations several years ago, when I was on the subcommittee having in charge the District of Columbia appropriation bill. For several years there was an appropriation of $2,000.

Mr. GOULDEN. One thousand five hundred dollars.

Mr. GILLETT. We looked into the question of these lectures and the attendance at them, and we concluded that the lectures were not in the line of education of children, but that they were for adults and more a matter of gratification than education.

We thought they were more for amusement and entertainment than they were in the line of education, and we did not feel that it was the province of Congress or of the city government to begin giving entertainments to the grown people of the District. If I remember right, we found that the average attendance was about 200 at these lectures. I am quite sure it was not larger than that, and we found that the lecturers were all paid a compensation, which varied—perhaps my friend from New York can tell me what the compensation is.

Mr. GOULDEN. Ten dollars. I want to say, if the gentleman will pardon me, that the Member now speaking did not receive any compensation, but declined it.

Mr. GILLETT. I am sure it was worth it in that case. We found that they were paid a compensation, and then there were other expenses. Sometimes they had illustrated lectures, and then something was paid for janitor service. I have forgotten exactly what the expenses were, but I think the average expense of a lecture came to about $25. We concluded that the lectures, judging from the subjects which they treated of, were not in the line of the education of the children or of their parents, but were more in the line of entertainment, and we felt that it was not in the province of Congress to furnish amusement to the people of the District. Therefore we struck it out of the appropriation bill. When it came into the House an amendment was offered, as the gentleman says, and it was stricken out on a point of order. Since then there has been a constant attempt to pass this law, giving the right to have lectures, and it brings before the House the general question, it seems to me, Do we want in the District of Columbia to go into the business of providing entertainments for adults or do we not? I do not believe we do, and therefore I shall vote against this proposition. I believe in doing all we can for the children of the District, giving them everything which will promote their health as well as education. On their development depends the future of the country, and we can not afford to be on the side of niggardliness, but I do not think we should pay for the entertainment of adults.

Mr. OLCOTT. I yield to the gentleman from Vermont [Mr. FOSTER] such time as he desires.

Mr. FOSTER of Vermont. Mr. Chairman, I am heartily in favor of this proposition. As matters now stand it is very difficult to get an appropriation for anything that is not provided for by law. This bill does not mean that we must necessarily appropriate money for this enterprise. It is true that free lectures are had in other cities. Every few days I read accounts of the free lectures that are given in New York in connection with the public-school system. The subjects are given and the names of the lecturers are given. It is the desire of the people of the United States that the system of public instruction here in Washington should be as nearly ideal as possible. This bill simply prepares the way so that hereafter, if the House of Representatives thinks it wise to provide for a course of free lectures, it can do so.

It can not do so now, because a Member on the Committee on Appropriations or any other individual Member of the House can raise the point of order if an attempt is made in connection with the proper appropriation bill to appropriate money for this purpose. I believe that the House of Representatives should have the opportunity to consider these subjects. This is a great and interesting subject, one that the House of Representatives is capable of dealing with. When the appropriation bill comes in each year there will be time enough to consider the question of making or continuing an appropriation.

Mr. SHERLEY. Would not that be true as to any other governmental activity? Is it not true that a point of order lies to any item on an appropriation bill when there is no law for it? If the gentleman's argument is sound, ought we not to authorize any department to do any particular thing and then leave it to the House to determine on an appropriation bill whether we want to vote the money?

Mr. FOSTER of Vermont. I see no objection to that.

Mr. SHERLEY. But is there any force in your argument at all?

Mr. FOSTER of Vermont. I think there is.

Mr. GILLETT. If the House does not want to do this, why is it not the better way to defeat this bill, rather than to wait until the question comes up on an appropriation bill?

Mr. FOSTER of Vermont. Because that shuts out all future Houses of Representatives. The House of Representatives will go on after the gentleman from Massachusetts and myself cease to be Members.

Mr. GILLETT. Why can not a future House pass this bill just as well as we can?

Mr. FOSTER of Vermont. We can pass this particular bill; but if this particular bill is passed now, then at every session of Congress the House of Representatives can consider the question of appropriating money for a course of free lectures. Otherwise it can not do this except as the Committee on Rules brings in a special rule.

Mr. GILLETT. We can pass this bill just as well in any other Congress.

Mr. FOSTER of Vermont. I know we can pass this bill in any other Congress, but I say that we can not consider an item in the appropriation bill on its merits for this purpose until some such legislation like this is had, and for that reason I am in favor of the legislation.

Mr. OLCOTT. Mr. Chairman, the objection that free lectures are not a proper part of public education as coming from the gentleman from Massachusetts [Mr. GILLETT] surprises me greatly. I am sure that he will agree with me that the experience in the city of Boston has been that these lectures have done a great amount of good. I know it has been so in the city of New York. I really think that we might just as well seriously discuss whether it is a proper appropriation of money for free libraries. There are some people that have not the taste or perhaps the ability for making proper use of libraries. I think these people should receive the advantage of having the lectures here in the city of Washington.

Mr. TAWNEY. Will the gentleman permit an interruption?

Mr. OLCOTT. Yes; if the gentleman wishes.

Mr. TAWNEY. The gentleman takes as an illustration the use of free libraries.

Mr. OLCOTT. If the gentleman wants to ask me a question, I will yield, but I do not want him to interrupt me in the middle of a sentence.

Mr. TAWNEY. The free library distributes its books everywhere, but the free lectures are limited by the size of the hall that is engaged.

Mr. OLCOTT. Not a speech, please.

Mr. TAWNEY. And the average attendance at these past lectures has only been 200.

Mr. OLCOTT. That is an interesting remark to come from the gentleman from Minnesota in view of the fact that the principal objection to free lectures in the past was that there was not enough people attending the lectures to make it profitable. Now the gentleman says that the greatest objection is that they are limited in number to the size of the hall. I think the objections made by the opponents of this bill are inconsistent.

The fact remains that in every city where lectures have been had they have been of great benefit to the community. If the Committee on Appropriations can not limit the expenditures, and the board of education can not be trusted to perform their duty properly in connection with these free lectures, if that is not a sufficient guard against this tremendous onslaught on the Treasury of the United States, then I think it is time to get a new board of education. Of course I would not say anything about a new Committee on Appropriations. [Laughter.]

Mr. GAINES of Tennessee. Will the gentleman yield to an inquiry?

Mr. OLCOTT. I will yield to the gentleman.

Mr. GAINES of Tennessee. What does the gentleman mean by "free lectures?"

Mr. OLCOTT. Lectures that do not cost anything to the people who attend them.

Mr. GAINES of Tennessee. Does the Government pay the lecturer?

Mr. OLCOTT. That is left to the board of education, who spend the money appropriated by the Appropriation Committee. If the Appropriation Committee does not make any appropriation, why, of course, the board of education can not pay any lecturer.

Mr. GAINES of Tennessee. Why should you call them "free lectures" if it takes money out of the Public Treasury to pay the lecturer?

Mr. OLCOTT. I have stated my idea of free lectures—that they are such lectures as a person can attend without paying an admission fee.

Mr. SIMS. Mr. Chairman, when this same subject-matter was up before the last Congress I opposed this bill, or as a provision then offered in the appropriation bill. I oppose it now for the reason that I see no necessity for it whatever in the city of Washington. While, as has been stated, the lectures will be free to those who hear them—and I do not know how many there will be who will go—there are more opportunities for general education in the city of Washington by means of libraries, lectures, sermons, and schools than in any place in the United States. It is suggested by my friend from Massachusetts on my right [Mr. AMES] that I have not mentioned Congress, where it does not cost anything to hear the proceedings or to read them if they will only give us their names. Another gentleman says I have omitted the White House. I do not mean to omit any educational agency in this discussion. [Laughter.]

But I think the way to look at this is to take a practical view of it and see what they did do in Washington when they had these lectures, what kind of lectures they were, and what were the subjects, and see whether or not this House feels authorized to increase expenditures while every hour the deficit is increasing in the Treasury and new sources of taxation must be sought in order to support the Government, and to see whether or not we want these free lectures—free to those who will go to hear them and yet not free to the Government of the United States or to the District of Columbia.

The gentleman from New York [Mr. OLCOTT] had charge of the measure at that time. I looked back to the lectures they did have under the appropriation in 1905, and I refresh my memory by referring to the RECORD, so as to show you some of the subjects of the lectures, to see whether or not at a time like this, when the revenues of the Government are going down every day, we want to put an additional burden on our people in order that the people here may have an opportunity to attend free lectures upon such subjects as were treated at that time. There was a lecture delivered by H. W. Wiley, Ph. D., subject, "Feeding Preservatives to Young Men." That was one of the kind of lectures that you were paying for in 1905—feeding preservatives to young men!

Mr. OLCOTT. Will the gentleman yield for a question?

Mr. SIMS. Yes.

Mr. OLCOTT. Was not that the fault of the board of education in so administering the funds? And does that change the general principle?

Mr. SIMS. Then I will say that I do not want that board or any other board in the future to again disburse money for such purpose. Here was another by Henry Oldys, subject, "Bird Notes!" Some of you perhaps remember the serious and solemn discussion we had of the importance of that great lecture at that time—a free lecture to those who had it at the expense of the Treasury of the United States, in order that the working people of the District may hear bird notes talked about—free to them!

The very fact that money would be squandered for such a purpose as that should preclude any thought of ever laying a tax to employ any lecturers to discuss subjects of that kind. Bird notes! How many of you gentlemen are interested in bird notes? We should try to preserve the birds, and they will take care of the notes, but the idea of paying somebody to go down there and lecture to the people at night free upon bird notes seems preposterous. How many of you gentlemen feel that you could justify such a vote before your constituents, taxing them to have free lectures here on bird notes, or anywhere else?

Mr. BARTLETT of Georgia. Why not have a lecture on how to pay promissory notes?

Mr. SIMS. My friend from Georgia suggests that a lecture on the method of paying promissory notes would be more in order, and I think so, too. We are issuing notes of the Government, bonds to run the Government—we will have to do so—and they are a kind of note, not a bird note, but a very interesting one to the taxpayer.

Another lecture was by George O. Totten, jr., on Spanish architecture. Now, you all know that the laboring people of this country and this District will be greatly deprived of a necessary knowledge to make a living if they do not understand Spanish architecture, and we must be taxed to have free lectures in order that they may understand Spanish architecture. Why, I suppose they are up on that subject now. They had a lecture on it in 1905. I never found out how many of them attended it, but I am showing you the subjects we did pay for, to enable the people to hear lectures free.

Another one is "Around the world in forty minutes." [Laughter.] That, perhaps, is excusable. I believe I would be willing to go to a lecture and pay for it if somebody would tell me how to go around the world in forty minutes, and especially how to get the navy of the United States around the world in less than twelve months at a cost of millions of dollars. But here is a free lecture on how to get around the world in forty minutes. These are the subjects of the lectures for which we did pay. It is so ridiculous that it seems unnecessary to comment upon the fact that these are the lectures delivered free to people who are so poor they can not pay to hear a lecture without taxation; so ridiculous as to disgust this Congress with any attempt to establish anything of that kind again.

Mr. GAINES of Tennessee. How much did they pay for a lecture?

Mr. SIMS. I do not know. If it had been a cent it would be too much.

Mr. GILLETT. Ten dollars.

Mr. SIMS. Here is another one, by the Rev. U. G. B. Pierce; subject, "A night in the nether world." Do you want to tax your people in order to let the people here find out something from a lecture about a night in the nether world? Is not that a practical subject? Is not that something we ought to all know about?—a night in a nether world. Of course, I do not know what the board of education will do in the future, but we have been taught that we must judge the future by the past, and that is what they did do. That is the way they employed the funds, and what guaranty have we that there will be any practical use made of it? Besides, it is not needed, even if it was desirable; even if the people did not have all the good opportunities they have here that are paid for, not costing them a cent, living in the finest city in the United States, if not in the world, with the greatest opportunities for educational advantage—a great museum, great libraries, and both ends of this Capitol full of great scholars, orators, and lecturers, who, at least when here, deliver them free.

Now, Mr. Chairman, I think this bill ought to be voted down. I do not think any such bill ought to pass. I do not think we ought to put it up to the Appropriations Committee to refuse to appropriate if Congress makes the law. It is saying to the Appropriations Committee that we deem it worthy of their consideration. Let us make no such useless law as this that was used, as I have indicated, when we did have such a law. Mr. Chairman, I reserve the balance of my time.

Mr. GAINES of Tennessee. Before my colleague takes his seat I want to ask him what were the subjects discussed in the public schools in Boston?

Mr. SIMS. I do not know; I have not looked that up.

Mr. GAINES of Tennessee. I would like to have that information; possibly they had something else.

Mr. OLCOTT. Mr. Chairman, I renew my motion to lay the bill aside with a favorable recommendation.

Mr. TAWNEY. Mr. Chairman, I want to call attention to one fact before the vote is taken. We have experimented with this in the past. Congress heretofore authorized these lectures and appropriated the money for them, and as a result of our experience with this authority Congress subsequently refused to authorize the continuance of these lectures and refused to appropriate money to defray the expense.

Mr. PARSONS. Will the gentleman yield for a question?

Mr. TAWNEY. Certainly.

Mr. PARSONS. How did Congress refuse to authorize?

Mr. TAWNEY. By failing to appropriate.

Mr. PARSONS. But did not the provision go out on the point of order?

Mr. TAWNEY. The provision went out on a point of order made on the floor of the House——

Mr. GILLETT. I beg pardon; no, it did not the first time. It was omitted by the Appropriations Committee and——

Mr. OLCOTT. The amendment was offered by me, and went out on the point of order.

Mr. TAWNEY. Mr. Chairman, there is another branch of Congress where those interested in free lectures know very well that amendments of this character can be inserted in appropriation bills, and if there was any effort made to include this appropriation in the District of Columbia bill in the Senate the appropriation was not made. Now, if in the first instance we should authorize these lectures, as we did, and authorize them on the same presentation as now we are asked to authorize or enact this law, if the lectures are of such character as to justify the expenditure Congress can be relied on to make the appropriation for them, but under our experience it was demonstrated

that they were not of that character as to justify the expenditure of public money for that purpose, and for that reason the appropriation has not been made, and we abandoned the experiment. I do not know what the experience or result has been in Boston or in New York, but after a full investigation of the practicability and utility of these lectures it was found to be unsatisfactory, and for that reason Congress ceased to make the appropriation, and I do not think we are justified upon the same presentation now to enact a permanent law whereby these lectures may be continued indefinitely. They may be improved or they may not; in any event, if we enact this it creates a permanent law and appropriations will be made without reference to the necessity for them. I hope the bill will be voted down.

Mr. OLCOTT. Mr. Chairman, I renew my motion.

Mr. GAINES of Tennessee. Will the gentleman yield for a minute?

Mr. OLCOTT. Yes.

Mr. GAINES of Tennessee. I want to find out from the gentleman from Massachusetts [Mr. GILLETT] about these lectures in Boston. I understand free lectures have existed for some time in Boston. Will the gentleman tell the House what subjects were discussed?

Mr. GILLETT. I am not a citizen of Boston, and I do not know.

Mr. GAINES of Tennessee. Well, is there anybody from Boston who can inform us? I really would like to know.

Mr. MANN. The gentlemen from Boston are all on that side of the House.

Mr. GAINES of Tennessee. I understand that is a very learned side of the House.

Mr. MANN. And they send very learned Representatives here, too.

Mr. GAINES of Tennessee. I would like to know what some of the lectures are had in the schools of Boston, so we can pass on this matter intelligently. I am going to vote against the bill with the information I have.

Mr. PARSONS. I think that in New York City the character of the subjects on which lectures are given are mostly historical and scientific. I remember that some years ago we had an anniversary celebration in New York, and we called upon the bureau of public lectures to give illustrated lectures in the open air all over the city on the occasion of that anniversary. These lectures were illustrative of the history of the city. Pictures of the city, showing its growth, gave to hundreds of thousands of people in the city information that they could not have obtained in any other way, and that of itself was quite worth while. Now, I would suggest that while the subjects alluded to by the gentleman from Tennessee [Mr. SIMS] are very humorous, his arguments against lectures would be equally as good against allowing the money appropriated for the public library in the District to be used to purchase books with those same titles. You do not object to that, and you would not object to it. You can very easily suppose the kind of lectures which would be of great benefit to those who went to hear them, and I hope that the experience of New York and Boston, where they have proper subjects, will prevail with the committee.

Mr. TAWNEY. I hope that the experience in the District of Columbia will prevail.

Mr. BENNET of New York. Mr. Chairman, I have always had a great admiration for the city of Chicago.

Mr. MANN. There are others.

Mr. BENNET of New York. Since visiting there last June I want to say that my admiration is even greater because of the magnificent system of recreation centers that they have established in that city, superior, I should say, to anything in the world. I think that we Representatives from cities, and especially from districts which embrace sections of cities where we have people who have not had all of the advantages, feel that in a sense it is our duty, legislating as we do for the District of Columbia, to see that the people here of limited means have the same opportunities as people of limited means in our own cities have. We have tried these lectures in New York City, and they have appealed to and instructed the people who have not had early opportunities. They are using them in the city of Chicago, but the gentleman from Illinois [Mr. MANN] tells me that there they are either entirely free to the city, or else that the expense was defrayed by a newspaper, and, therefore, the situation is not entirely analogous. But I do believe that in cities where the population is congested instruction of this sort to people who have not had the opportunities in their youth is valuable, and I hope the bill will pass.

Mr. GOULDEN. Mr. Chairman, I am in favor of the proposed bill. Having had a number of years of practical experience in this matter, I have seen the benefits arising from free lectures. Take the Borough of the Bronx, which constitutes the major portion of the Eighteenth New York Congressional District, with a population approximating that of Washington, a fair comparison can be made. The first lecture center was established there some fifteen years ago. Since then, twenty-odd centers have been formed and are in successful operation, proving the great popularity of this part of the great educational system of New York City.

The subject-matter of the lectures, which were attended by upward of two millions, was both instructive and interesting. They were of a historical, physiological, geographical, and kindred character.

Having attended many of these lectures, witnessed the interest manifested by the people, who come largely from the laboring or middle classes, heard their testimony in favor of these functions, I am in entire accord with the measure now under consideration.

When these lectures were given here in Washington in 1905, I watched them closely and formed the same favorable opinion of their benefits and advantages.

The criticism of the gentleman from Tennessee [Mr. SIMS] in giving the title of but four of the forty or fifty lectures delivered here four years ago is unfair. Why did he not give the committee the full list, showing the high and educational character of the great majority of these functions? Experience has taught all cities which have introduced the free lectures that they are beneficial, instructive, and popular. Congress may well follow these worthy examples and approve this desirable measure for the benefit of the people of the District of Columbia.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

Mr. SIMS. Mr. Chairman, it has not been read under the five-minute rule, and I want to offer an amendment to the bill. I have not a copy of the bill with me, but I want to add this as a final section if the Clerk will take it down.

The CHAIRMAN. Does the gentleman demand the reading of the bill?

Mr. SIMS. I do not care about its being read, so that I may offer an amendment.

The CHAIRMAN. Without objection, the gentleman will offer his amendment.

Mr. SIMS. I offer this as the last section of the bill:

Provided, That the expenses thereof shall be paid entirely from the revenues of the District of Columbia as appropriated from time to time by Congress.

Mr. OLCOTT. I will not accept that amendment, Mr. Chairman, because I do not want to go into that question.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert at the end of the bill:
"*Provided*, That the expenses thereof shall be paid entirely from the revenues of the District of Columbia as appropriated from time to time by Congress."

Mr. SIMS. Mr. Chairman, as this is a local educational facility, and benefits almost entirely the local people, who are permanent residents of the District, I think these lectures ought to be paid for out of the district revenues.

Mr. MANN. Will the gentleman yield for a question?

Mr. SIMS. Certainly.

Mr. MANN. The gentleman's amendment would seem to be perfectly fair in some respects; but, after all, we have been acting under what may practically be called an agreement or organic act, under which the present District of Columbia is governed. This is in violation of the provisions of that act, and we can violate it because we have the authority to violate it; but the District people are always asking Congress to violate it in their favor. If we violate that provision in our favor, certainly we will give them a very good precedent for asking us to violate it in their favor in the future. It would be more direct to move to strike out the enacting clause of this bill.

Mr. SIMS. Under the organic act, I can not conceive that it was ever dreamed that any such appropriation as this would be asked for. I do not believe it was contemplated; and the only reason why I offer this amendment is to make the bill as objectionable as possible, in order that it may be killed—if the gentleman will accept that explanation.

Mr. MANN. In order to get at the matter directly, and as the motion will have priority, I move to strike out the enacting clause.

The CHAIRMAN. The question before the committee is the motion to strike out the enacting clause of the bill.

The question was taken, and the chairman announced that the ayes appeared to have it.

Mr. OLCOTT. Division, Mr. Chairman.

The committee divided, and there were—ayes 46, noes 21.

So the amendment was agreed to.

CODE OF LAWS FOR THE DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Chairman, I move that the bill (H. R. 552) to amend section 553 of the Code of Laws for the District of Columbia be referred back to the Committee on the District of Columbia.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 552) amending section 553 of the Code of Laws for the District of Columbia.

The question was taken, and the motion was agreed to.

So the bill was laid aside with the recommendation that it be recommitted.

ORDER OF BUSINESS.

Mr. SMITH of Michigan. Mr. Chairman, I move that the committee rise and report the bills to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. TOWNSEND, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration sundry bills and had directed him to report the bill H. R. 16977 with the recommendation that the enacting clause be stricken out, the bill H. R. 552 with the recommendation that it be recommitted to the committee, and the bills H. R. 16066 and 12899 with favorable recommendations.

BILLS PASSED.

The first bill reported from the Committee of the Whole was the bill (H. R. 16066) providing for the payment of an annual license tax by dealers in all forms of manufacture of tobacco in the District of Columbia, with amendments, which were read.

The amendments recommended by the Committee of the Whole were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

The next bill reported from the Committee of the Whole was the bill (H. R. 12899) to provide for a disbursing officer for the Government Hospital for the Insane.

The bill was ordered to be engrossed for a third reading; and being engrossed, was accordingly read the third time and passed.

BILL RECOMMITTED.

The next business reported from the Committee of the Whole was the bill (H. R. 552) to amend section 553 of the Code of Law for the District of Columbia, with the recommendation that it be recommitted to the Committee.

The recommendation of the Committee of the Whole was agreed to, and the bill was recommitted to the Committee on the District of Columbia.

FREE LECTURES.

The next business reported from the Committee of the Whole was the bill (H. R. 16977) for free lectures, reported from the Committee of the Whole, with the recommendation to strike out the enacting clause.

The SPEAKER. The question is on agreeing to the recommendation of the committee.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. OLCOTT. Division!

The House divided; and there were—ayes 35, noes 12.

Mr. OLCOTT. I demand the yeas and nays.

The SPEAKER (after counting). Twelve gentlemen have arisen.

Mr. FITZGERALD. The other side.

The other side was taken.

The SPEAKER. Twelve have arisen in support of the demand and 56 in the negative. The yeas and nays are refused.

So the enacting clause was stricken out.

On motion of Mr. SMITH of Michigan, a motion to reconsider the votes by which the bills H. R. 16066 and 12899 had been passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had passed the following resolution:

Resolved, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H. R. 16743) for the removal of the restrictions on alienation of lands of allottees of the Quapaw Agency, Oklahoma, and the sale of all tribal lands, school, agency, or other buildings on any of the reservations within the jurisdiction of such agency, and for other purposes.

BUCKET SHOPS IN THE DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I call up the bill (H. R. 20111) to amend an act entitled "An act to establish a code of law for the District of Columbia," relative to gambling, bucket shops, and bucketing.

The bill was read as follows:

Be it enacted, etc., That section 869 of the act of Congress entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, be, and is hereby, amended by adding sections 869a, 869b, 869c, and 869d, so as to read as follows:

"SEC. 869a. An act to prohibit bucketing and bucket shopping and to abolish bucket shops.—The following words and phrases used in this act shall, unless a different meaning is plainly required by the context, have the following meanings:

"'Person' shall mean an individual, partnership, corporation, or association, whether acting in his or their own right or as the officer, agent, servant, correspondent, or representative of another.

"'Contract' shall mean any agreement, trade, or transaction.

"'Securities' shall mean all evidences of debt or property and options for the purchase and sale thereof, shares in any corporation or association, bonds, coupons, scrip, rights, choses in action, and other evidences of debt or property and options for the purchase or sale thereof.

"'Commodities' shall mean anything movable that is bought and sold.

"'Bucket shop' shall mean any room, office, store, building, or other place where any contract prohibited by this act is made or offered to be made.

"'Keeper' shall mean any person owning, keeping, managing, operating, or promoting a bucket shop, or assisting to keep, manage, operate, or promote a bucket shop.

"'Bucketing' or 'bucket shopping' shall mean: (a) The making of or offering to make any contract respecting the purchase or sale, either upon credit or upon margin, of any securities or commodities wherein both parties thereto intend, or such keeper intends, that such contract shall be or may be terminated, closed, or settled according to or upon the basis of the public market quotations of prices made on any board of trade or exchange upon which said securities or commodities are dealt in and without a bona fide purchase or sale of the same; or (b) the making of or offering to make any contract respecting the purchase or sale, either upon credit or upon margin, of any securities or commodities wherein both parties intend, or such keeper intends, that such contract shall be or may be deemed terminated, closed, or settled when such public market quotations of prices for the securities or commodities named in such contract shall reach a certain figure without a bona fide purchase or sale of the same; or (c) the making of or offering to make any contract respecting the purchase or sale, either upon credit or upon margin, of any securities or commodities wherein both parties do not intend, or such keeper does not intend, the actual or bona fide receipt or delivery of such securities or commodities, but do intend, or such keeper does intend, a settlement of such contract based upon the differences in such public market quotations of prices at which said securities or commodities are or are asserted to be bought and sold.

"SEC. 869b. Any person who makes or offers to make any contract defined in the preceding section, or who is the keeper of any bucket shop, shall, upon conviction thereof, be punished by a fine not exceeding $1,000 or by imprisonment for not more than one year. Any person who shall be convicted of a second offense shall be punished by imprisonment for not more than five years. The continuing of the keeping of a bucket shop by any person after the first conviction therefor shall be deemed a second offense under this act. If a domestic corporation shall be convicted of a second offense, the supreme court of the District of Columbia shall have jurisdiction, upon an information in equity in the name of the United States district attorney for the District of Columbia, on the relation of the Commissioners of the District of Columbia, to dissolve the corporation; and if a foreign corporation shall be convicted of a second offense, the supreme court of the District of Columbia shall have jurisdiction, in the same manner, to restrain the corporation from doing business in the District of Columbia.

"SEC. 869c. Any person who shall communicate, receive, exhibit, or display in any manner any statement of quotations of prices of any securities or commodities with an intent to make, or offer to make, or to aid in making, or offering to make any contract prohibited by this act, upon conviction thereof shall be subject to the penalties provided in the preceding section.

"SEC. 869d. Every person shall furnish, upon demand, to any customer or principal for whom such person has executed any order for the actual purchase or sale of any securities or commodities, either for immediate or future delivery, a written statement, containing the names of the persons from whom such property was bought or to whom it has been sold, as the fact may be, the time when, place where, and the price at which the same was either bought or sold; and if such person shall refuse or neglect to furnish such statement within twenty-four hours after such demand such refusal or neglect shall be prima facie evidence that such purchase or sale was bucketing or bucket shopping within the terms of this act."

Mr. SMITH of Michigan. Mr. Speaker, I yield to the gentleman from Kansas [Mr. CAMPBELL] such time as he desires.

Mr. CAMPBELL. Mr. Speaker, this bill is modeled after the law now in force in the State of Massachusetts and the law that was enacted last winter in the State of New York. I was in correspondence with the secretary of the senate of the State of New York during the time that this bill was before the committee, and I have a copy of the bill as it was reported by the senate committee to the New York senate, and also a copy as it was passed by that senate, the bill having previously passed the New York assembly. The sections are transposed in some instances, but in every section throughout the entire bill the intent and language are practically the same as the bill now before the House.

Mr. MANN. That is the New York law?

Mr. CAMPBELL. Yes. The New York law passed last winter. In a letter that I do not now find among my papers, written by the governor of Massachusetts, he states that the law has worked well there, considering the shortness of the time it has been in operation. The bill went into effect in

Massachusetts, I think, in the summer of 1907, and had only been in operation for some four or five months at the time the governor wrote concerning the matter.

Mr. MANN. We have a very effective antibucket-shop law in force in the State of Illinois. In the gentleman's investigations has he examined that law?

Mr. CAMPBELL. I examined the Illinois law very carefully.

Mr. MANN. Is it substantially the same as this bill?

Mr. CAMPBELL. Yes; as strong in some particulars as the law I propose here. All these laws tend in the same direction. The language differs and the punishment differs, in many instances, but the intent and practically the language of all the laws in all the States that I have examined are along the same lines and have the same purpose.

There are about fifteen known bucket shops in the District of Columbia, or were last winter. There are other places in the back ends of saloons and other resorts where wagers are laid on the prices of securities and commodities. They have a ticker, and margins are dealt in the same as in the more openly conducted bucket shops.

Mr. ADAIR. Mr. Speaker, is this a copy of the New York law practically?

Mr. CAMPBELL. Yes. However, it is more proper to say that it is a copy of the Massachusetts law. The New York law is a copy of the Massachusetts law.

Mr. ADAIR. And has it been successful in the State of New York?

Mr. CAMPBELL. It has just gone into effect there.

Mr. ADAIR. Are there any bucket shops in operation in the State of New York?

Mr. CAMPBELL. I think it is safe to say that there is some bucketing done in the State of New York.

Mr. Speaker, gambling in the price of stocks and commodities has been the subject of regulation and prohibitive legislation in Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Louisiana, Mississippi, Michigan, Massachusetts, Missouri, North Carolina, New Hampshire, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, and Wisconsin.

The constitutions of California and Louisiana prohibit dealing in stocks on margins and for future delivery.

The intent and purpose of the law in all cases is to prohibit the gambling that is done in the price of stocks, securities, and commodities.

Gambling in stocks and food commodities has been a subject of discussion in many of the countries of the world. Within the past ten years the subject has been under consideration in some form or other by the Argentine Republic, Austria, Belgium, Bulgaria, Denmark, France, Germany, Greece, Hungary, Italy, the Netherlands, Norway, Portugal, Roumania, Russia, Servia, Spain, Sweden, and Switzerland.

The Canadian government has passed an effective law upon the subject. Throughout European countries a popular protest has arisen against gambling on the prices of farm products, the necessities of life.

It is wise to prohibit this species of gambling that is widely indulged in and most injurious in its consequences. Men who can ill afford to lose, gamble and lose their money in bucket shops and stock exchanges, betting on the differences in prices of stocks and commodities. Thousands have thought they could win in stock and grain gambling and have gone to their ruin. They have started in the bucket shop on a small scale, settling the differences between prices, and ended in ruin, the penitentiary, or the grave of a suicide.

It is estimated that within the last twenty-five years $2,500,000,000 have been lost in this species of gambling by those who could not afford to lose.

Embezzlement, imprisonment, ruin, suicide, and panic have been the results. Some of the principal victims were recently mentioned in a New York paper. I call attention to them here. Their experience should not be lost to others and to the country:

1884. The Marine National Bank of New York City was looted by two of its directors, who, in their Wall street speculations on margins, lost $2,000,000. The Second National Bank, through the Wall street speculations of John C. Eno, its president, lost $4,000,000.

1891. John T. Hill, president of the Ninth National Bank of New York City, speculated away $400,000.

1894. Frederick Baker, a depositor, and Samuel C. Seely, bookkeeper in the National Shoe and Leather Bank of New York City, lost $354,000.

1895. Frank C. Marvin, lawyer, Brooklyn, $75,000.

1898. John S. Hopkins, cashier of the People's Bank of Philadelphia, lost the bank's funds in speculation and killed himself, $700,000.

The Chemical National Bank, of New York City, lost, through "mistakes of judgment" on the part of the cashier, $393,000.

Ex-Mayor F. H. Twitchell, of Bath, Me., $60,000.

1899. George M. Valentine, cashier of the Middlesex County Bank and treasurer of the Perth Amboy (N. J.) Savings Institution, confessed to losing in speculation $125,000.

1900. Cornelius J. Alvord, jr., note teller of the First National Bank of New York City, lost in stock speculation $690,000.

William Schreiber, clerk in the Elizabeth Banking Company, Elizabeth, N. J., squandered in Wall street $106,000.

A confidential clerk of a wholesale house in Walker street, New York City, lost in Wall street $200,000.

1903. Frank V. La Bountie, confidential clerk for law firm of Wilson & Smith, of Chicago, $500,000.

William S. Allen, treasurer Preachers' Aid Society, Boston, $70,000.

United States Playing Card Company, of Cincinnati, robbed by a trusted woman employee of $100,000.

Enoch L. Cowart, cashier of the Navesink (N. J.) Bank, $40,000.

John A. Scott, cashier of the New York office of the London Assurance Company, $25,000.

William B. Given, president of the Lancaster County (Pa.) Railway and Light Company, $100,000.

Thomas W. Dewey, cashier of the Farmers and Merchants' Bank, of Newbern, N. C., $125,000.

James M. Watson, jr., clerk for auditor of the District of Columbia, $100,000.

Trusted clerk at the Hotel Beresford, in New York City, $50,000.

1904. Arnold Beathlen, cashier of a bank at West Liberty, Pa., $85,000.

John F. Goggin, treasurer of the Nashua Trust Company, of Nashua, N. H., arrested, charged with defalcation of $100,000.

George A. Rose, cashier of the Produce Exchange Banking Company of Cleveland, $170,000.

Wallace H. Ham, Boston agent of the American Surety Company, of New York City, $286,000.

Ex-Mayor S. F. Smith, of Davenport, Iowa, $150,000.

F. H. Cutting, bank president, of Ota, Iowa, $112,000.

1905. Ex-Tax Collector E. J. Smith, of San Francisco, $60,000.

Paul O. Stensland, Chicago banker, who was captured abroad, $1,500,000.

Cashier of the Cornwall (N. Y.) Bank, $45,000.

W. W. Karr, accountant of the Smithsonian Institution, Washington, D. C., $50,000.

Mayor William H. Belcher, Paterson, N. J., $150,000.

Frank G. Bigelow, head of the First National Bank of Milwaukee, $1,450,000.

F. H. Palmer, cashier of the State Bank, Peconic, Long Island, $40,000.

Denver (Colo.) Savings Bank, looted by speculating officials of $1,700,000.

Newton C. Dougherty, superintendent of schools, Peoria, Ill., $250,000.

T. Lee Clarke, cashier of the Enterprise (Pa.) Bank, $1,200,000.

F. R. Green, cashier Fredonia National Bank, $300,000.

1906. Joseph A. Turney, note teller in the National Bank of North America, of New York City, took from the institution and lost in Wall street $34,000.

County Treasurer F. E. Smith, of Akron, Ohio, $282,000.

Gordon Dubose, president of the First National Bank, Ensley, Ala., $40,000.

Frank K. Hipple, president of the Real Estate Trust Company of Philadelphia, $7,000,000.

C. S. Hixon, bookkeeper, Union Trust Company of Pittsburg, $125,000.

1907. Charles T. Barney, president of the Knickerbocker Trust Company, who killed himself when the financial crash came. It is estimated by his close friends that the total amount lost by him in speculation was almost $10,000,000.

F. Augustus Heinze, whose losses in the market fluctuations, according to a statement made by him to a friend, were $9,000,000.

Charles W. Morse, whilom "ice king," "steamboat king," and "bank chainer," whose losses in market fluctuations are figured at $20,000,000.

Chester Runyan, bank clerk, New York City, $86,000.

George H. Brouwer, known as the "soul of honor," confidential man for James H. Oliphant & Co., stockbrokers, of New York City, $90,000.

Clerk for the tax collector of New Orleans, $100,000.

William F. Walker, treasurer of the New Britain (Conn.) Savings Bank, $600,000.

Miss Flora Steipel, cashier in a Philadelphia department store, $25,000.

Oliver M. Dennett and William O. Douglass stole $1,300,000 in securities from the Trust Company of America and pawned them for $140,000.

Mr. Speaker, these enormous losses were the result of gambling in the price of stocks and commodities—not in the legitimate purchase of railroad or industrial stocks, or grain, or cotton, or produce of any character. It was not investment; it was gambling in options, futures, and the differences in prices of the products of the farm and stocks and securities of the transportation and industrial companies of the country.

It is safe to add to the injury that falls to the lot of the unfortunate individual who thus "speculates" and loses, and his family, the injury that comes to the whole country. Gambling on the price of other people's property, too often with other people's money, has more than once led the country into financial panics that have had a most harmful effect upon the otherwise prosperous business of the country. Thousands of industrious men, through no fault of theirs, have been thrown out of employment because other men gambled on the differences in the prices of the property they produced or worked with.

Mr. Speaker, the Wall street panic of 1901 was the result of fraudulent stock manipulation and gambling, and the whole country narrowly escaped disastrous results from that fraudulent manipulation and gambling. It was all done by a few individuals.

The incipient panic of 1903 was started by Wall street gamblers, and the financial panic of October, 1907, was started in Wall street and was the collapse after a debauch in wild and excessive gambling, largely in the prices of stocks that were

owned by an innocent public—stocks that were not bought and sold in good faith on the exchanges. Money was borrowed in large amounts for which there was not ample security. This money had been attracted from country banks in almost every State in the Union by offers from Wall street banks of attractive rates of interest on daily balances. The interest offered was a higher rate than could be paid by manufacturers, jobbers, and merchants, or grain or cattle dealers who were doing a legitimate business for a fair profit.

I have no hesitation in saying that the panic was brought on by gambling with other people's money on the differences in prices of other people's property.

I would not stop investment and speculation on the stock exchanges, which promote large enterprises and float the stocks and bonds of the great industrial and transportation concerns of the country. Not at all. I would help rather than hinder investment and proper speculation in real stocks and real bonds and real grain and real cotton and real products of every sort that are sold in good faith and delivered in good faith, where the owner through his agent wants to sell and the buyer through his agent wants to invest.

I would protect honest investors and speculators in all these stocks, securities, and commodities from gambling and fraudulent manipulation in the prices of the stocks, bonds, grain, cotton, and other property of the country.

These gamblers never buy nor sell in good faith. I assert, without fear of successful contradiction by anyone, that over 90 per cent of the transactions on all the stock exchanges in Wall street or on the board of trade in Chicago or elsewhere in the country is a gamble on the differences in prices.

I assert here that in less than 10 per cent of the transactions on these exchanges that purport to be sales and purchases there is no real delivery in good faith by a seller to a buyer who wants to invest and become the owner of the property and secure the dividends or interest that may be earned. Actual delivery of the specific property is not made or intended to be made, and the alleged buyers do not want the stock they pretend to purchase as an investment.

Why, Mr. Speaker, to the actual investor and to the man who speculates on his best judgment, the dividends paid by a concern would largely control him in the price he would pay for its stocks or bonds, and yet it is actually true that on the stock exchanges in Wall street and elsewhere in the country the prices of stocks and bonds are not controlled by this standard of value.

On the 3d day of April, 1907, the Associated Press gave out this bit of news:

NEW YORK, *April 3, 1907.*

A market in which good news is good only until it gets out is not a very robust bull market. Just before the announcement of the increase in the Atchison dividend was made the stock sold at 94⅝. A few minutes later the price dropped to 94, and within half an hour it was fully a point down from the high morning and more than two points from the highest level touched in the rise on Tuesday.

But that is not all. The income of the railroads of the country gradually increased from $875 to $1,180 in a single year, and yet by a shrewd manipulation of railroad stocks within this period the prices were forced down or up to suit the demands of a gambling enterprise. What is actually done on the exchanges denies that they are conducted solely for real investors or speculators where property is sold and delivered in good faith.

The influence of these gambling prices upon the business of the country can not be anything but bad.

There are 35 banks, 29 trust companies, 9 safe deposit companies, the general offices of 52 railroads, 46 fire and 18 life insurance companies, 6 express companies, 21 telegraph, 18 steamship, and 42 coal, iron, steel, and copper companies, and more than 200 other large industrial and transportation corporations in the financial district that surrounds the stock exchanges in Wall street. Every one of these enterprises is keenly sensitive to and affected by the manipulations that go on on the exchanges.

A recent editorial in the New York World is so full of valuable information on this subject that I shall take the liberty of quoting from it. I take it that a New York paper would be fair with Wall street, the stock exchanges, and the banks of its city. It says:

Nowhere on the earth does another such gambling institution exist as finds shelter in the New York Stock Exchange—an unincorporated irresponsible institution. According to the statistics carefully compiled by James Creelman in Pearson's Magazine, there were sold in 1906 on the stock exchange 286,418,601 shares of stock of the par value of $25,000,000,000, besides 665,000 thousand-dollar bonds; on the Consolidated Exchange 136,000,760 shares of stock, besides 21,569,178 shares of mining stock and 183,884,000 bushels of wheat. This does not include curb sales.

These gambling transactions amount to over $30,000,000,000—four times the value of the products of all the farms of the United States, half the value of all the land and buildings, one third the census valuation of all the wealth of every kind in the country.

Last year there were sold on the stock exchange 43,399,710 shares of Reading, fifteen times the total amount of Reading stock in existence. Of the Union Pacific, Harriman's road, there were sold 36,751,600 shares, twenty times as much as existed.

Ninety-one and one-half per cent of these transactions, according to Thomas W. Lawson, are nothing except bets that the price goes up or down. They are as much gambling as betting on a horse race or on the card that comes out of the faro box, or on the odd-or-even fall of the dice.

Mr. Speaker, this is gambling on a colossal scale. Carried on as it is, it takes the money of the country out of legitimate channels of trade, where interest rates are largely controlled by the sober business judgment of business men who do a fair business for a fair profit. They can not compete in the payment of interest rates with reckless gamblers, and banks that wince under the criticism that they are not conservative and careful with the money of their depositors take their chances with these gamblers too often, to the injury of their depositors and the country.

The panic of 1907, I say again, was largely due to the banks that cater to the stock gamblers, absorbing a large portion of the money of the country to be used by men engaged in reckless gambling. They were willing to pay any rate of interest that was necessary to obtain the money.

In no other country than the United States are incorporated banks permitted to be a part of the machinery of stock gambling. In no other country are the methods of stock gamblers such as to require the constant use for that sole purpose of hundreds of millions of dollars of other people's money. In London, Paris, Berlin, Frankfort, and Amsterdam gamblers in stock must use their own money and their own credit as if they were playing at Monte Carlo instead of on a stock exchange.

This difference in stock gambling accounts for the great fluctuations in the rates of interest in New York as compared with the stability of European financial centers. In New York call money may be 3 per cent one day and 50 per cent the next day, which is unknown in Europe.

By bidding up the rate of interest higher than legitimate business can pay, stock gamblers are able to draw from productive industry its means for supplying pay rolls, for carrying on manufacturing, for distributing goods, and for moving crops.

This drains the reserve money of the United States to Wall street. A commercial bank, charging merchants and manufacturers 6 per cent interest, can not afford to pay interest on deposits in competition with the Wall street banks, which can frequently get 20 to 50 per cent on the stock exchange for the use of their deposits. Thus this reserve money gravitates to the banks that can afford to pay high interest.

Wall street in this way became a great funnel into which the savings of the people, instead of being available to the local manufacturer or the local storekeeper, were driven by higher rates of interest to the stock exchanges.

Without the banks' assistance this whole system would be destroyed and the stock gamblers in New York would have to gamble as do the stock gamblers in London, Paris, Frankfort, and other European bourses where the form of actual delivery in speculative transactions is not gone through with. Such a thing as a London stockbroker having the Bank of England or a Paris broker the Bank of France certify his check in advance and thus furnish the funds for him to gamble with is unheard of. The European stockbrokers gamble as do the London race-track bookmakers, who have their regular settlement day at Tattersalls.

The forms which the New York and Chicago stock exchanges go through to evade the gambling laws are in vogue nowhere else.

The French and German Governments treat stock gambling somewhat as race-track gambling is now treated in this country. But these continental governments go further. They even decide in what stocks and bonds they will allow gambling, many of them forbidding gambling in the price of farm products.

If it is important to stop betting on cards, roulette, and horse racing—and it is—how much more important that we should rid legitimate business of the contaminating evil of Wall street and board of trade gambling.

This bill will stop betting on the price of other people's property here. I hope the bill will pass.

Mr. GAINES of Tennessee. I want to ask the gentleman from Kansas if he will not accept an amendment in the nature of an additional section to read something like this:

SEC. 869e. That the court having jurisdiction shall charge the grand jury each term to investigate violations of this act.

Mr. CAMPBELL. I should have no objection to that.

Mr. MANN. I want to say that we have a provision of that sort in the law in Illinois, and if it has any tendency at all it is to make of it a farce, because to charge a grand jury—with us every month—with the same thing where there is no offense committed, and no consideration given to the subject in the end, tends to make a laughing matter of it; and for years that was the result. We enforce the law now, but not on account of that provision.

Mr. GAINES of Tennessee. I do not think it will do any harm.

Mr. MANN. It has done harm with us, and I am sure no one would be in favor of putting it in the law again.

Mr. GAINES of Tennessee. This House has heretofore adopted similar measures. The gentleman says: "What is the use of charging the grand jury when there are no bucket shops and no violations of the law?" Then the grand jury would be very brief in their investigation and thus deter their coming. But the gentleman from Kansas says that there are a number of bucket shops all over the District of Columbia. Now, if there are five or six dozen—some on top of the ground and some under the ground, some in the garrets of the hotels and some in the cellar—the grand jury would be very apt, if they were charged every term to investigate the violations, in the course of twelve months to get all of these broken up, and thus the grand jury could attend to this matter in a few months. I think it will do no harm to adopt the amendment, and I hope the gentleman from Kansas will accept it. This amendment will show the court that Congress deems the evil very dangerous and should be wiped out.

Mr. CAMPBELL. I shall offer no objection to the amendment of the gentleman from Tennessee. I will yield to the gentleman from Tennessee to offer the amendment.

Mr. GAINES of Tennessee. Then, Mr. Speaker, I offer the amendment.

The Clerk read as follows:

SEC. 869e. Courts having jurisdiction shall charge the grand jury each term to investigate violations of this act.

Mr. CAMPBELL. The amendment will be considered as pending. I had just started, Mr. Speaker, to say that the District of Columbia Commissioners are anxious that this shall become a law. They had to resort to prosecutions for bucketing and bucket-shop keeping under the general gaming laws last winter. They want a law that is specific on the subject, and are anxious that this bill as reported by the committee shall become a law. Now, if there is nothing further to be said on the subject, I ask for a vote.

Mr. GILLETT. Mr. Speaker, I wish to submit an amendment.

The SPEAKER. Does it relate to the amendment offered by the gentleman from Tennessee?

Mr. GILLETT. No; it is a separate amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was agreed to.

Mr. GILLETT. Now, Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

SEC. 869f. Any person who, with intent to conduct, promote, or carry on in any manner whatever any "bucket shop," or who, with intent to aid, assist, or abet in the conducting, promoting, or carrying on of any such "bucket shop," shall deposit with, send, or transmit by any telegraph company or telephone company, or by any wire owned or controlled or leased by any such corporation, any dispatch, message, or market quotation from one State or Territory into another State or Territory, or from or into the District of Columbia, shall be guilty of a misdemeanor, and shall be punished for the first offense by a fine not exceeding $1,000 or by imprisonment for not more than one year, and for the second and each other offense punished by imprisonment for not more than five years.

SEC. 869g. No common carrier, or corporation, or employee thereof, shall receive for transmission, or transmit, or send from one State or Territory into another State or Territory, or from or into the District of Columbia, any dispatch, message, or market quotation prohibited by section 869f of this act; and every person who shall willfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be liable to the same penalties as provided in section 869f.

SEC. 869h. No common carrier, corporation, or person engaged in the business of conveying for hire messages, news, or information from one State to another by telegraph or telephone shall purchase or receive the market quotations of any exchange or board of trade in one State and transmit or deliver or sell them to any person, association, copartnership, or corporation, who or which, in his, its, or their own behalf, or as agent, is engaged in another State in the business of conducting a "bucket shop;" and no such common carrier, corporation, or person, shall permit any telegraph or telephone wire owned, controlled, or leased by it or him, to any other person, to be used to convey or transmit such market quotations from one State to any person, association, copartnership, or corporation, who or which, in his, or its own behalf, or as agent, is engaged in the business of conducting in another State such "bucket shop;" and every such common carrier, corporation, or person, and every officer and agent thereof who shall willfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be liable to the same penalties and punishment as provided in section 869f hereof.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that the amendment is not germane to the bill. This is a bill to prohibit the maintenance and establishment of bucket shops in the District of Columbia. It has been carefully considered by the committee, and I understand there is no objection to it. This proposed amendment attempts to regulate the business of the telegraph and telephone companies and other common carriers in their transactions through the various States. Unless the matter is very carefully considered by some committee, I do not propose, if I can prevent it, to have the matter disposed of in this way.

Mr. GILLETT. Mr. Speaker, this undoubtedly does refer to others besides the District, but it also applies and directly carries out the objects of this bill, which are to prevent bucket shopping here. Now, one of the best ways to prevent that is to prevent the bucket shops here from getting the information upon which their existence depends, and therefore so far my amendment explicitly carries out the purposes of the act. It does also go farther. It also forbids any common carriers in the United States assisting bucket shops anywhere in the United States, and I am sorry that my friend objects to so worthy a proposition.

Mr. FITZGERALD. Mr. Speaker, I am not sure that it is a worthy proposition. That is the difficulty. The gentleman offers an amendment and it is impossible to tell either what its effect will be or what it means, and under the methods in which the business of this House is done I propose to have such amendment properly considered and properly framed before I shall give my consent to it.

Mr. GILLETT. May I ask the gentleman a question?

Mr. FITZGERALD. Yes.

Mr. GILLETT. Why he considers that it is impossible to understand it. It seems to me that it is very lucid.

Mr. FITZGERALD. Oh, I suppose it is because of my lack of comprehension and not because of the lack of ability on the part of the gentleman to properly frame it, and upon that ground alone I am satisfied to insist on my objection.

The SPEAKER. The Chair is prepared to rule. This is a bill "to amend an act entitled 'An act to establish a code of law for the District of Columbia, relative to gambling, bucket shops, and bucketing.'" The amendment applies not only to the District of Columbia, but journeys elsewhere. The scope of the amendment applies to the various States and Territories and to commerce among the States. It seems to the Chair it is not germane, and the Chair therefore sustains the point of order.

Mr. CAMPBELL. Mr. Speaker, I call for a vote.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. CAMPBELL, a motion to reconsider the last vote was laid on the table.

SALE OF GAS, DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I call up the bill (H. R. 18513) to repeal section 5 of an act entitled "An act relative to the sale of gas in the District of Columbia," approved June 6, 1896, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That section 5 of an act entitled "An act relating to the sale of gas in the District of Columbia," approved June 6, 1896, and all remedies therein provided, be, and the same are hereby, repealed, and all pending proceedings thereunder shall be vacated, and no judgment, decree, finding, permit, or valuation of any kind mentioned or intended to be mentioned in said section shall be made or ascertained.

Mr. SMITH of Michigan. Mr. Speaker, I am going to ask that the report accompanying this bill be printed in the RECORD.

The SPEAKER. The gentleman from Michigan asks unanimous consent that the report accompanying this bill be printed in the RECORD. Is there objection? The Chair hears none, and it is so ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. MANN. O Mr. Speaker, let us know what it is.

Mr. HEPBURN. Is there to be no explanation of this bill?

Mr. SMITH of Michigan. Is there any objection to the report being read?

Mr. MANN. That has been disposed of.

The SPEAKER. Unanimous consent has been given that the report shall be printed in the RECORD.

Mr. SMITH of Michigan. I intended to ask to have it read.

The SPEAKER. If the gentleman desires in his own time or the time of any other gentleman who takes the floor, that may be done.

Mr. SMITH of Michigan. I yield to the gentleman from Kansas.

Mr. CAMPBELL. Mr. Speaker, if the gentleman from Michigan will withdraw his request to have the report printed in the RECORD, I will ask unanimous consent to have it read in my time.

Mr. SMITH of Michigan. Very well. That is perfectly immaterial to me.

The SPEAKER. The gentleman from Kansas asks unanimous consent that the privilege to print the report in the RECORD, which was granted by unanimous consent, be canceled.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to suggest to the gentleman that reading a report from the Clerk's desk is of very little practical value in the explanation of a bill, and certainly the committee owes it to the House that some one make an oral statement of the real facts in the case.

Mr. SMITH of Michigan. Oh, that will be done.

Mr. MANN. Let the report be printed in the RECORD. I therefore object to the request.

The SPEAKER. The gentleman from Illinois objects.

Mr. MANN. Let us have an explanation of the bill.

The report is as follows:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 18513) "to repeal section 5 of an act entitled 'An act relating to the sale of gas in the District of Columbia,' approved June 6, 1896," report the same back to the House with the recommendation that it do pass.

Two gas companies supply gas in the District of Columbia. The larger of the two companies is the Washington Gaslight Company, which was incorporated by act of Congress passed July 8, 1848 (9 Stat. L., 702), with a capital stock of $50,000, and it supplies the territory east of Rock Creek. The smaller company is the Georgetown Gaslight Company, which supplies the territory west of Rock Creek. It was incorporated July 20, 1854 (10 Stat. L., 786), with a capital stock not to exceed $150,000. This sum represents its present capital stock.

The capital stock of the Washington Gaslight Company has been increased from time to time, and at present its authorized capital stock is $2,600,000.

Capital stock of the Washington Gaslight Company.

July 8, 1848 (9 Stat. L., 702), charter	$50,000
August 2, 1852 (10 Stat. L., 734), increase of	300,000
January 3, 1855 (10 Stat. L., 835), increase of	150,000
May 24, 1866 (14 Stat. L., 53), increase of	500,000
May 29, 1872 (17 Stat. L., 192), increase of	200,000
NOTE.—With the privilege of increasing the capital stock $1,000,000 (the said increase not to be made from undivided profits accrued or thereafter to accrue)—	
between 1873 and 1876 there was paid in	300,000
and between 1876 and 1882	500,000
was issued to stockholders share for share. (See statement of the Washington Gaslight Company, p. 6, report of Senate committee to accompany S. 2918, dated July 7, 1886.)	
June 6, 1896, section 5 (29 Stat. L., 251), increase of	600,000
Total amount of authorized capital stock	2,600,000
Certificates of indebtedness outstanding bearing 6 per cent interest per annum	2,600,000

Five hundred thousand dollars of capital stock of the Washington Gaslight Company has been distributed as stock dividends and, $2,600,000 of stock dividends in form of certificates of indebtedness has been issued, making in the aggregate $3,100,000 extra stock dividends.

The object of the present bill is to repeal section 5 of the act of June 6, 1896. That section reads as follows:

"That neither the Washington Gaslight Company nor the Georgetown Gaslight Company shall hereafter issue any greater number of shares of stock than shall be equal to the actual cash value of said plants and necessary cost of the construction of future extensions or future enlargement of plants, which cash value and cost of extensions shall first be ascertained and authorized upon petition therefor to the supreme court of the District of Columbia under such regulations as the chief justice and the justices thereof shall prescribe; also, if either of the said corporations shall desire hereafter to issue bonds upon their property, secured by mortgage or otherwise, upon petition therefor to said court, setting forth the necessity thereof and the amount of stock issued and outstanding, it may be and shall be lawful for said court, or the chief justice and justices thereof, as the case may be, or one of them, upon public notice, to be prescribed by the rules of said court, to permit the issuance of such bonds and mortgage as desired: *Provided*, That the amount of stock and bonds issued shall not exceed the actual cash value of said plants and the cost of such extensions or enlargement of plants: *And provided further*, That the Washington Gaslight Company is hereby authorized to issue such additional amount of capital stock as will provide for the conversion into such stock of its outstanding certificates of indebtedness, which conversion of said certificates is hereby authorized to an amount not exceeding $600,000."

In June, 1907, the supreme court of the District of Columbia, in general term, passed a rule for procedure under said section.

No action was taken under section 5 of this act by either of the gas companies until the month of June, 1907, when the Georgetown Gaslight Company filed its ex parte petition in the supreme court of the District of Columbia, setting forth that its stock had been fully paid; that it had issued no bonds; that its entire floating debt did not exceed $60,000, and that it desired to issue additional stock to equal the total cash value of its plant and the extensions and enlargements thereof, as provided in said section 5 of the act of June 6, 1896. A copy of this petition, with rule to show cause, was served on the Attorney-General of the United States, who appeared in the case by the United States attorney, and on the Commissioners of the District of Columbia. The cause was referred to the auditor of that court (whose office is that of a master in chancery) to take testimony on the actual cash value of the plant. Testimony was taken before him, and he has filed his report, but it has not been confirmed because of legal proceedings in the case of the Washington Gaslight Company. A summary of the auditor's report shows:

Valuation of Georgetown Gaslight Company property.

Land	$42,823.90
Buildings	42,705.30
Apparatus	59,108.50
Gas holders	36,300.00
Street mains	167,030.60
595 street-lamp services	5,950.00
225 lampposts	1,575.00
Consumers' meters and connections	18,623.00
Working capital	30,000.00
Value of franchise, rights, and good will	66,661.00
Total actual cash value	470,777.30

In his valuation of the company's "plant" the auditor included the value of its land, buildings and machinery, apparatus, personal property, street mains, gas holders, consumers' meters, working capital ($30,000), value of franchise, rights, and good will ($66,661), but did not allow the gas company for 2,025 consumers' service pipes leading from the main to the house meter paid for by the consumer, although the company claimed that these services should be valued at $16 each. Exceptions have been filed to this report by the corporation counsel on behalf of the Commissioners of the District of Columbia, particularly in reference to the valuation as part of the "plant," of franchise, rights, and good will, and working capital. These exceptions are pending and have not been heard because the Washington Gaslight Company on November 5, 1907, filed its petition in the same court for the ascertainment of the actual cash value of its "plant" and the cost of future extensions or enlargement of the same. The Commissioners of the District of Columbia appeared, by the corporation counsel, and presented a motion to dismiss the petition on the ground that section 5 of the act of June 6, 1896, was unconstitutional in that, among other reasons, the power given the court was not a judicial power. The court overruled the motion. An application was made to the court of appeals of the District of Columbia for a writ of prohibition to the supreme court of the District of Columbia, which writ was awarded on the grounds mentioned, and all proceedings under section 5 have been stayed until the Supreme Court of the United States shall determine whether that section is constitutional and valid. The opinion of said court of appeals is reported in volume 36, No. 8, of the Washington Law Reporter, at page 114.

Aside from the fact that section 5 as it now stands has been declared unconstitutional by the court of appeals (whose decision is presumably correct) and should therefore be removed from the statute books, its practical effect is to deny adequate protection to the consumer and the public, because proceedings thereunder are ex parte, and the valuation to be made depends solely on witnesses furnished by the gas companies, and there are no funds which are available to the District of Columbia to employ experts to value the gas plants on the part of the public, and therefore no fair valuation can be had under the present law.

The corporation counsel was obliged to submit the case on the facts solely on cross-examination of the witnesses produced by the Georgetown Gaslight Company.

When the Georgetown Gaslight Company's case first came before the court, the presiding justice stated:

"The simple question here is to ascertain the cash value of the plant. The court has nothing to do with the subsequent action of the gas company in issuing new stock. It may not issue it, for all the court knows or cares. It simply ascertains the cash value of the plant, and presents that fact to the gas company for such action as it may deem proper to take in the premises. It occurs to the court that the most the representatives of the United States and the District of Columbia would be expected to do would be to see that the testimony presented was fair and subjected to the usual cross-examination for the purpose of testing its accuracy. That, however, is a matter for the representatives of the United States and the District."

There is, too, a serious ambiguity in the act in that the court is to ascertain the actual cash value of the "plant," which the auditor holds to mean franchises, rights, good will, and working capital, although the charters do not grant a perpetual franchise. The auditor has arrived at this conclusion on the ground that Congress intended to protect those who dealt in gas stocks. If this construction be sustained and the ex parte character of the judicial inquiry is to be maintained, these companies will be allowed to capitalize their profits furnished by the consumers of gas on the testimony of their own witnesses, and thereby secure a valuation which will, if it becomes vested by judicial decision, require reasonable profit thereon, and thus forever prevent a reduction of the price of gas below a fair profit on the accumulated profits of the gas companies, plus tangible property. The valuation of the plant of the gas compaies and the price of gas can not be separated. Under the law the courts will not allow the question of the price of gas to be examined, but will capitalize earnings or dividends, thus authorizing the companies to charge a price for gas which will afford a fair return on such increased capital, although gas may be furnished at a less price for a fair profit without such increase of capital stock.

The repeal of the act will take nothing away from the companies or their stockholders, because they can still distribute their surplus earnings as dividends. Section 5 can be now repealed without injury to anyone, because no right has become vested by any judgment or decree.

Mr. BUTLER. Mr. Speaker——

The SPEAKER. Does the gentleman from Kansas yield to the gentleman from Pennsylvania?

Mr. CAMPBELL. Certainly.

Mr. BUTLER. Can not we have the report read; is there anything in it we should not hear?

Mr. CAMPBELL. I have just asked for that.

Mr. MANN. Oh, well, if gentlemen desire the report read, I withdraw my objection, but I had rather have the gentleman from Kansas explain it. I dare say the gentleman from Pennsylvania will not listen to it.

The SPEAKER. The gentleman from Kansas can have the report read in his own time.

Mr. CAMPBELL. Mr. Speaker, the purpose of this bill is to repeal section 5 of the gas act passed in 1896. Section 5 of that act gives the supreme court of the District of Columbia au-

thority to find the value of the gas properties here in the District. The section proposed to be repealed, I am informed, was agreed to in conference twelve years ago when a gas bill was before Congress, and that section did not have consideration in either the House or Senate at that time. Last year the Washington Gaslight Company filed a petition in the supreme court of the District petitioning the court to ascertain the value of its properties. The auditor for the District is ex officio or was made a master in chancery to take evidence as to the value of the gas plant and its property. The first objection to the section was made by the commissioners and by the corporation counsel when the method of ascertaining this value was under consideration by the court.

The court prescribed the rules under which evidence should be taken and the value of the property ascertained. These rules limited the investigation to the evidence offered by the petitioner, the gas company, and all the United States district attorney or the corporation counsel were permitted to do under the rules prescribed by the court was merely to cross-examine the witnesses offered by the gas company touching the several questions affecting the value of its property. Indeed, the question occurred to the commissioners for the first time, that they in any event had no appropriation out of which they could secure experts to make an investigation of the value of the property and offer evidence in the case. The commissioners before the committee insisted that under the procedure in the court they had no adequate opportunity of showing whether or not the value fixed by the gas company's officers and experts was a fair value or not. They were merely permitted to cross-examine the witnesses. It is contended by the corporation counsel that the value of the franchise, for example, was taken into consideration by the auditor in fixing the value of the company's property and that upon every ground they objected to that element in the value of the company's property.

The franchise cost the company nothing and it may be terminated by Congress at any time, yet it appeared in the evidence that the franchise and good will were estimated at $66,661. The commissioners directed the corporation counsel to take every step that was open to him for the protection of the District and the consumers of the gas here from an unreasonable increase in the capital stock of the gas company. The corporation counsel, upon the instructions of the commissioners, went into court and filed every pleading that was available. The result of the efforts of the corporation counsel is, or was up to the time this report was made, the court of appeals of the District of Columbia had decided that section 5, under which the value of the gas property was ascertained, was unconstitutional, and the case has been taken to the Supreme Court of the United States and, I think, is pending there now. The question raised by the commissioners before the committee, and the appeal to it which led to a favorable report on the bill and its being here to-day, was upon this proposition: Under the interpretation of the court only the gas company may offer evidence in the hearing of the character provided for showing the value of the properties sought to be ascertained.

Mr. HEPBURN. May I ask the gentleman a question?

Mr. CAMPBELL. I yield with pleasure.

Mr. HEPBURN. There is a court of appeals that would have jurisdiction over the further progress of this case, is there not?

Mr. CAMPBELL. There is.

Mr. HEPBURN. What is the objection to pursuing the ordinary course and taking an appeal to determine this question of law? Is that not the proper course, rather than coming in here and asking for a law to be repealed? Is not this a question that ought to be determined—this matter of franchise—and whether or not that is a legitimate part of the plant, and ought not the Supreme Court to pass upon the question?

Mr. CAMPBELL. The case has gone to the Supreme Court of the United States upon that question. The case went to the Supreme Court upon the constitutionality of section 5 of the act.

Mr. HEPBURN. Is it not a wise thing to have the opinion of the Supreme Court upon this vexed question, as to whether or not a franchise is a part of the plant of a corporation?

Mr. CAMPBELL. That was not the question that was raised.

Mr. HEPBURN. I understood the gentleman to say that question was involved here and that the court had intimated——

Mr. CAMPBELL. That was a question of fact that was found by the auditor, he finding that the franchise was of value.

Mr. HEPBURN. But that question is in the case, is it not?

Mr. CAMPBELL. The question went to the court of appeals of the District of Columbia, and from there to the Supreme Court of the United States, on the constitutionality of the question as to whether or not the court had authority at all to merely find the value of a public-service corporation in the District of Columbia on an ex parte proceeding.

Mr. HEPBURN. But under the law as it now exists this other question might be determined by the Supreme Court?

Mr. CAMPBELL. Yes.

Mr. HEPBURN. And if you repeal this statute that question can not be determined, can it?

Mr. CAMPBELL. Not under this section, of course.

Mr. DRISCOLL. I would like to ask what the present price is.

Mr. CAMPBELL. The present price of gas in the District of Columbia is $1 per thousand net.

Mr. DRISCOLL. How long since it has been reduced before?

Mr. CAMPBELL. On June 6, 1896.

Mr. DRISCOLL. What was it then?

Mr. CAMPBELL. Prior to that time $1.25.

Mr. DRISCOLL. I wish to ask another question: Whether or not the Washington Gas Company and the Georgetown Gas Company are now consolidated?

Mr. CAMPBELL. They have not been consolidated; no.

Mr. DRISCOLL. They have not been consolidated legally, but have they been consolidated in doing business?

Mr. CAMPBELL. It is contended they are under the same general management.

Mr. DRISCOLL. I know that some years ago an effort was made to consolidate the companies here and get Congress to permit an increase of stock. Has there been any increase of stock on the part of those companies in the last two years?

Mr. CAMPBELL. There has been an increase of stock in the Washington Gaslight Company since its incorporation in 1848. It was first chartered with a capital stock of $50,000. In 1852 that stock was increased $300,000. Then, on January 3, 1855, it was increased $150,000; May 24, 1876, it was increased $500,000; May 29, 1872, it was increased $200,000; between 1873 and 1876 there was paid in $300,000, and between 1876 and 1882, $500,000.

Mr. DRISCOLL. What do you mean by "paid in?"

Mr. CAMPBELL. The capital stock paid in.

Mr. DRISCOLL. Is it not a fact that practically all those increases were procured by earnings of the company?

Mr. CAMPBELL. That is the contention of those who are opposed to further inflation of the stock of these companies.

Mr. DRISCOLL. Is it not a fact, as developed by your investigations?

Mr. CAMPBELL. Well, we had hearings upon the subject, and there was very strong testimony tending to show that fact.

Mr. DRISCOLL. Now, on this examination for the purpose of determining the price of gas at 90 cents, what percentage does the committee allow of the stock as it is now—on the amount of stock which is now issued?

Mr. CAMPBELL. This not being a bill to fix the price of gas, we did not go into that question.

Mr. DRISCOLL. What does this bill do?

Mr. CAMPBELL. It simply repeals section 5 of the present act that authorizes the gas company to go into the courts here and have the courts find the value of their property with the view of issuing stock upon the value as found by the courts.

Mr. DRISCOLL. You have a bill here to-day fixing the price of gas, have you not?

Mr. CAMPBELL. I am not sure whether that bill is on the Calendar.

Mr. SMITH of Michigan. Yes; it is on the Calendar.

Mr. DRISCOLL. And it is to be called up within a few minutes, is it not?

Mr. SMITH of Michigan. We expect it will be.

Mr. DRISCOLL. I might as well ask now, then.

Mr. CAMPBELL. I am not prepared to answer on that. Wait until that bill comes up.

Mr. GAINES of Tennessee. Will the gentleman from Kansas [Mr. CAMPBELL] tell us if they want to repeal that law so as to wipe a lawsuit out of court?

Mr. CAMPBELL. There is a lawsuit here, but it is thought that this law is unjust to the District of Columbia and to the people here, in that it only permits evidence by the petitioner to show what the elements of value are that enter in the make-up of the stock of the company.

Mr. MURDOCK. Will the gentleman explain how we will find the valuation in case section 5 is repealed?

Mr. CAMPBELL. There would have to be some other method of ascertaining. My own opinion is that there should be a well-considered law to provide for ascertaining the value, and that that law should provide for the commissioners giving expert and other testimony as to the value of the property as well as the testimony that is given by the gas company.

Mr. MURDOCK. Just one more question: As section 5 stands, is the district government hurt in any way for the present?

Mr. CAMPBELL. Yes; the fear of those who have petitioned for the passage of this bill is, if this act stands and the Supreme

Court of the United States should say that the act providing for the method of ascertaining the value of the property was constitutional, then, without a proper hearing from the District side, the capital stock of this company might be very largely increased and the price of gas retained at a high figure on the claim that it was necessary to keep it up at that figure in order to pay dividends.

Mr. MILLER. Suppose this section 5 should be repealed, what law is there for the determination of the amount of stock that may be issued by these gas companies?

Mr. CAMPBELL. If it is repealed, there would be none.

Mr. MILLER. And they might issue any amount of stock without regard to the value.

Mr. CAMPBELL. They can not issue stock without authority of Congress.

Mr. BURLESON. It is the purpose of these proceedings now to prevent them from watering their stock.

Mr. MANN. No; it is not the purpose of the repeal of this act.

Mr. BURLESON. It is the purpose of the proceeding—that this section of the act is to enable them to water their stock, and the purpose of repealing the section of that act is to prevent them watering their stock.

Mr. ADAIR. Well, if this section is repealed, what effect would it have on the lawsuit?

Mr. CAMPBELL. It would leave the pending lawsuit suspended.

Mr. ADAIR. In other words, the purpose of this is to defeat the pending lawsuit.

Mr. CAMPBELL. No; that is not the purpose. That would be one of the effects. The purpose was to prevent an increase in the capital stock of these companies without a fair hearing from the commissioners' side of the case.

Mr. ADAIR. It would wipe out the lawsuit now pending.

Mr. CAMPBELL. It would wipe out the lawsuit in the United States Supreme Court.

Mr. DRISCOLL. Suppose this bill is not acted on and the law stands as it is, in your judgment would the company have power to issue stock without coming to Congress?

Mr. CAMPBELL. The only thing that they could do——

Mr. MANN. The gentleman misunderstands your question.

Mr. DRISCOLL. If this bill is not repealed, they have the authority?

Mr. CAMPBELL. If the court sustains the act, then they would have the authority to go ahead and increase their capital stock.

Mr. MANN. Will the gentleman allow me to ask him a question?

Mr. CAMPBELL. Yes.

Mr. MANN. Without regard to the act of 1896, this company, as I understand, either can not issue additional stock or else issue additional stock for cash capital paid in?

Mr. CAMPBELL. Yes.

Mr. MANN. But under section 5 in the act of 1896 there is a provision for the issuance of stock up to the cash value of the plant. The company claims that the cash value of the plant includes the value of the franchise?

Mr. CAMPBELL. Yes.

Mr. MANN. And the statute provides that if the court shall hold that their franchise is included in the value of the plant, then the court shall permit them to issue bonds and stocks up to the cash value of the plant without paying in another dollar of capital?

Mr. CAMPBELL. Yes.

Mr. MANN. And this bill we now have is designed to prevent the issuance of any more stock or bonds without paying in more capital?

Mr. CAMPBELL. That is the purpose of the bill.

Mr. DRISCOLL. Does it do that?

Mr. CAMPBELL. It certainly does.

Mr. MANN. Because, under the existing law, they can not issue capital without cash and without authority of Congress.

Mr. CAMPBELL. I call for a vote, Mr. Chairman.

Mr. SIMS. Mr. Speaker, I would like to explain the bill, because I have been asked to make a statement. I am sorry I have not the briefs on the part of the commissioners and also the briefs of the attorneys of the gas company, in order that the position of the two sides may be understood. I will explain it, so that we may fairly understand the purpose of the committee in this report, and it is a unanimous report, so that the House will understand what will be the effect of the passage of this bill and possibly what would be the effect if it is not passed.

In the first place there are two gas companies. One is the Georgetown Gas Company, the other is the Washington Gaslight Company. I have been told that the same people own the stock in both companies, but I do not know how that is.

In 1896, before I had the honor to be a Member of this House, a bill passed the House reducing the price of gas in the District of Columbia. That bill went to the Senate, where an amendment was offered in substance providing that stock might be issued for further or future extensions, and when the bill finally went into conference the conferees brought out a section changing the proposition which had passed the Senate. It is that section that this bill now seeks to repeal. I hope I may have your attention while I read the section that we are trying to repeal. The House will understand how the section got into the bill. The object of that bill was not capitalization, but to reduce the price of gas.

The House passed the bill simply as a gas-reduction proposition, but when it got to the Senate these other amendments were offered, and it was stated on the floor of the House by one of the House conferees that it was impossible to pass the bill and get a reduction in the price of gas unless this section was accepted by the House. Upon that state of facts, as the debates show, it was accepted. The amendment was foreign to the object of the bill and had nothing to do with the proposition to reduce the price of gas. The section that we now seek to repeal is a limitation in negative form, not an enabling act, so to speak, but providing by implication the method by which future shares of stock might be issued. The section which we seek to repeal is as follows:

That neither the Washington Gaslight Company nor the Georgetown Gaslight Company shall hereafter issue any greater number of shares of stock than shall be equal to the actual cash value of said plants and necessary cost of the construction of future extensions or future enlargement of plants, which cash value and cost of extensions shall first be ascertained and authorized upon petition therefor to the supreme court of the District of Columbia, under such regulations as the chief justice and the justices thereof shall prescribe; also, if either of the said corporations shall desire hereafter to issue bonds upon their property, secured by mortgage or otherwise upon petition therefor to said court, setting forth the necessity thereof and the amount of stock issued and outstanding, it may be and shall be lawful for said court or the chief justice and justices thereof, as the case may be, or one of them, upon public notice, to be prescribed by the rules of said court, to permit the issuance of such bonds and mortgage as desired: *Provided*, That the amount of stock and bonds issued shall not exceed the actual cash value of said plants and the cost of such extensions or enlargement of plants: *And provided further*, That the Washington Gaslight Company is hereby authorized to issue such additional amount of capital stock as will provide for the conversion into such stock of its outstanding certificates of indebtedness, which conversion of said certificates is hereby authorized to an amount not exceeding $600,000.

The attack upon this section is made upon the ground that it undertakes to and does confer upon the supreme court of the District of Columbia, as a court, powers not judicial but legislative, powers which do not belong to it under the Constitution. If I had the brief of the corporation counsel I could give you the details of the suit instituted, if you can call it a suit. One of the contentions is that it is not a suit; that it is not a case in court; and the court by its action sustained that proposition to the extent of not hearing anything from the commissioners, but held that its only function under this act was to ascertain the cash value of the plant, which it is insisted by the corporation counsel and the District Commissioners is not a judicial function or power. They insist that the act is void in conferring any such power upon the court. It is a close question. It might be possible that making the members of the court a commission or naming them as individuals to do a ministerial act might not invalidate the law; but the commissioners contend that the conferring upon a court of legislative or ministerial power, work of this kind which is, as they contend, in no sense judicial, is void.

But the Supreme Court entertained a petition as to the Georgetown Gaslight Company, and fixed the value, and in the elements of value it included "franchise rights and good will." There was no franchise here in the sense of a definite period of time, but like all our corporations in the District of Columbia the right to alter or repeal at any time was retained in Congress.

Mr. McGAVIN. If this case is decided along about next September or October, and section 5 is declared invalid, may not both of these companies issue an abundance of stock and bonds before Congress will have an opportunity to prevent their issuance?

Mr. SIMS. I am coming to that in the order of my statement, but I want to make my statement in order so you can understand it. The Washington Gaslight Company filed a petition in the court to have the actual value of their plant ascertained under this act. Pending that the commissioners, through the corporation counsel, made application in the court of appeals of the District of Columbia for a writ of prohibition upon the District supreme court on the ground that the act was

void. That case was tried by the court of appeals and that court held that this act was void as conferring power that was not judicial.

In other words, the only function of the court was not judicial; the only thing it had to do was to fix the value of the plant. This section does not determine whether the stocks shall be issued nor how much, but simply fixes the value—a mere report of a referee—and the court of appeals held that the act was void.

That case has been appealed to the Supreme Court of the United States, and is now pending before that court. The commissioners had a bill introduced—I say they had a bill introduced, I am speaking from information—to indefinitely suspend this section 5 of the act of 1896. Afterwards a bill was introduced to repeal it outright and prevent any further procedure under the section, because if it ought to be suspended it ought to be repealed, as the effect was intended to be the same in both cases.

Mr. MANN. If the gentleman will pardon me, I understood him to say that the court had nothing to do with the matter of issuing stock and bonds.

Mr. SIMS. The lower court so held

Mr. MANN. But the statute says:

And shall be lawful for the said court, the chief justice and the associate justices thereof, as the case may be, or one of them, by public notice as described by the rules of said court to permit the issue of bonds and mortgages as desired.

Mr. SIMS. Yes; that is as to bonds and mortgages.

Mr. MANN. It covers the jurisdiction conferred in this case.

Mr. SIMS. Not having the ruling of the supreme court before me and stating from recollection—and I would be glad if any member of the committee would correct me if I am wrong—the supreme court held in the Georgetown proceeding that they had nothing to do under that provision but find the value of the plant. Then the company issued the stock or not in full volume of value found or less, just as the company might see proper under section 5 of the act of 1896.

Now, it is held by the corporation counsel that if a judicial finding of the actual cash value authorized by Congress is had, and stock issued to that amount, then the price of gas could never be reduced below the reasonable earnings upon that stock issue; not because this stock is outstanding, but because it is equivalent to and represents the actual value of the plant judicially determined.

The object of the commissioners in this bill is to have section 5 repealed and prevent further proceedings under it before the court acts, because they have no power to properly present to the court the interests of the consumer; that it is virtually in effect an ex parte proceeding as to the valuation of the property and the elements of value making it up, and that the consumer ought to have an opportunity through them to present their side of the case, which they claim under the holding of the Supreme Court, they were not permitted to do, and could not do.

Now, I want to say that I do not claim, under my investigation, that the capital stock of $2,600,000 is not less than the actual value of the plant. I believe it is much less. I think that the gas company, or the gas companies, in the District of Columbia are the only public-service corporations here that are not overcapitalized, and grossly overcapitalized.

Now, it is the fear of the commissioners that through the process of this computation and finding of the value by the court, which the court has itemized, including the value of the franchise and good will, the franchise being given by act of Congress for no value received, repealable at any time, that stock should not be issued by judicial authorization upon the value of a franchise given by the people and have to pay earnings upon the stock based upon the value of that franchise. If something was paid for the franchise, or it had a definite time to run, they would have a right to issue stock to that extent as well as upon any other article of property.

Mr. BUTLER. Will the gentleman yield for a question?

Mr. SIMS. I will yield to the gentleman.

Mr. BUTLER. As near as I can understand, and I have been trying to understand the purpose of the committee in seeking the repeal of this law, the auditor has placed the valuation upon the franchise, rights, and good will of the corporation?

Mr. SIMS. That is right.

Mr. BUTLER. And the gentleman contends that it was not intended by the court to include in the value the franchise, rights, and good will. Therefore, if the auditor had not valued the franchise, rights, and good will, the repeal of this section might not be asked for.

Mr. SIMS. It might be asked for just the same.

Mr. BUTLER. I agree to that, but this is the reason why it is asked for at this time?

Mr. SIMS. Well, that is one of the reasons, and a very strong reason. A precedent should not be established in this District of valuing a franchise that is given to a public-service corporation, and stock issued upon it, if it is only $25, should not be permitted by law, for every future corporation that seeks the same could get it, because we should have to put them all on the same basis and treat them all alike: Another thing: We all know that a franchise will increase in value with the increase of population in a city, with the increase of demand for gas and the use of the franchise. In the case of the Georgetown company, a very small company, it is valued at $66,661. Evidently, upon the same basis, the franchise in the Washington Gaslight Company would be of very large value.

Suppose you go along and permit stock to be issued upon the value of the franchise, in a few years—five years or ten years—the franchise is worth much more than it was when the stock was issued upon it, and you can repeat under this section, as I understand it, as the committee understands it, indefinitely. You can petition the court to fix a value, and continue to petition it and continue to add stock to the company to cover the value of a franchise that increases without a dollar of outlay by the company or any risk whatever—nothing except the natural unearned increment, as I am pleased to call it. Therefore the committee thinks that such a law should not be permitted to remain. If the Supreme Court sustains the court of appeals, of course the matter is ended; but it is a very close question, and the Supreme Court may hold that the act is valid. Then immediately the Washington Gas Company's case proceeds, as well as that of the Georgetown company. As soon as the value is fixed—I mean the cash value, including the franchise—they at once issue the stocks based on the finding of the court, and it becomes an issue based upon a judicial finding of value authorized and directed by Congress.

Mr. HEPBURN. May I ask the gentleman a question?

Mr. SIMS. Certainly.

Mr. HEPBURN. I understand the gentleman to base his argument in favor of the repeal of this statute upon the fact that in his judgment this is a very close question, and that, being a close question, therefore he proposes to take away from one of the parties whatever right he may have in it to an adjudication. Now, if it was not so close a question, if it was one in which there was no doubt at all, there would be, then, according to his argument, no argument in favor of the repeal of this statute. Is not that the position the gentleman puts himself in?

Mr. SIMS. No; Mr. Speaker, I will explain to the gentleman so I think he will understand it. Before action is taken under the act there are no vested rights, but as soon as the companies comply with the act and issue stock it becomes a vested right, and if we were absolutely sure the Supreme Court would hold the act valid, that would of itself be one of the strongest reasons why it should be repealed. In other words, the act ought never to have been passed.

Mr. HEPBURN. That may be, but as I understand it, there can be no issue of stock until the highest court in the United States declares that rightfully the stock may issue.

Mr. SIMS. No; that is not the question for the court to decide under this act.

Mr. HEPBURN. That is precisely the question, provided the act is constitutional.

Mr. SIMS. Congress provides in this act as a limitation that it shall not issue an amount of stock in value to exceed the value placed upon it by the court, but the court does not authorize the stock issued under this act. The court simply performs a ministerial legislative function, to investigate and find out what the value is. Then the law applies and the company shall not issue stock exceeding that, but it takes no authorization of the court to issue it. There is no mandate to issue it, and the company need not issue any, but if issued, then it becomes a vested right. Before it is a vested right we have a right to repeal the law.

Mr. MURDOCK. May I ask the gentleman a question? If the Supreme Court sustains the opinion of the court of appeals——

Mr. SIMS. That ends it.

Mr. MURDOCK. That ends the proposition?

Mr. SIMS. Yes.

Mr. MURDOCK. If we repeal this section——

Mr. BURLESON. That ends it.

Mr. MURDOCK. Will it redound to the good of the gas company or to the District? Is it an advantage to the District government to have this section repealed, or, on the other hand, will it do the gas company any harm?

Mr. SIMS. I will try and answer that as I see it—that is all I can do.

It may do the consumer a great deal of harm, providing the stock issue as a result of the proceedings should be so large that we can not reduce the price of gas and leave reasonable earnings to the stockholders in this new inflated or increased issue.

Therefore, the consumer, and I am presuming the commissioners represent the consumer when the commissioners, speaking in their representative capacity, ask that this bill be passed now. There is another bill here to reduce the price of gas, and if this section is repealed Congress can deal with the question of the reduction of gas unhampered by the possibilities of a stock issue that might render void or invalid any price we might fix. Some gentlemen seem to be under the impression that if this clause is repealed the company can go ahead and issue stock by some other means. They can issue no stock unless authorized by act of Congress to do so. I say, as I have said before, that the present stock issue of the Washington Gas Company does not equal even the structural value of the plant at present, but here is an act that, as construed by the court that will have to apply it, will capitalize this franchise, which is given the companies free. We should not give away the property rights of the people by way of a franchise and then allow the donee to capitalize it and demand an earning upon the gift.

But Congress has full power to authorize the increase of the stock of the gas company under such limitations as Congress may fix. It may say that in finding the value that the franchise rights and good will shall not be included, or it may fix any method, but Congress ought not, according to the judgment of the committee, have passed this bill, but the committee insists it has the right to repeal it before the rights of the companies under it have become vested.

Mr. HARDY. I desired to ask you a question, but I think you have just stated what I wanted to ask. My understanding of this position is that Congress has passed a law under which it is possible for the supreme court or higher court to hold that this company may capitalize its franchise, and before it has done so you wish to repeal that law. That is the whole thing.

Mr. SIMS. That is the whole thing in a nutshell. Now, Mr. Speaker, the object of this bill is not to reflect upon the court or findings of the court, either the supreme court or the court of appeals, or to anticipate the action of the Supreme Court of the United States. It is not interfering with the case in court, because there is only one party.

It is in the nature of an ex parte proceeding asking simply that the courts do that which will enable them to issue the stock to the extent of the value ascertained, and the court has already passed upon the Georgetown case and included the franchise, which would not amount to much if it did not go any further than that; but in the case of the Washington Gaslight Company, the franchise might be worth a million dollars, in five years' time it might be worth a million more, and in ten years' time it might be worth another million; and as long as this act stands here recapitalization can continue indefinitely, including the increased value of the franchise in each capitalization, for which nothing was paid. Now, I have no prejudice against the gas company any more than any other public-service corporation, and I may say that I have been very unsuccessful in trying to get some regulation of the street car companies here. I have no objection to the gas company having a capitalization equal to the value of the plant, excluding these elements of value that are not contributed by the stockholders directly or by withholding the dividends.

Now, I do not think the repeal of this act will prevent the gas company from getting a reasonable price for their gas. If they only had one dollar of stock they would be entitled to a just compensation for the services rendered, but the stock issue under these circumstances, as the committee looked on it, is equal to a judicial determination of the value, and then you never could reduce the price of gas below what would be a reasonable earning upon that value as evidenced by the stock issue under it. I, for one, am perfectly willing to vote for any bill to recapitalize the gas company upon a just valuation of the property; I think they are entitled to it as much as the street car companies to a vastly overissue of stock above the actual value.

But I am not here to plead the rights of either or the equity of either. Here is a law. I do not think it should ever have been passed. The law has not been executed, no rights have been fixed under it, and the committee thinks the law ought to be repealed, as it should never have been passed.

Mr. MANN. Will the gentleman yield for a couple of questions?

Mr. SIMS. Yes.

Mr. MANN. If this law be not repealed, what authority is there for these gas companies to increase their capital stock, and does the increase have to be for money paid in?

Mr. SIMS. No, sir; it does not have to be for money paid in.

Mr. WILLIAMS. He said if this act was repealed.

Mr. SIMS. I beg the gentleman's pardon. I misunderstood him. I understood the gentleman to say if we did not pass the act.

Mr. MANN. If the act be not repealed, what provision is there for the issuance of capital stock, and will the stock, if issued, ever be paid for in cash?

Mr. SIMS. If this section 5 of the act of 1896 is not repealed, and the present bill does not pass——

Mr. MANN. If the gentleman will answer the question in the form in which it is put——

Mr. SIMS. I was going to tell the gentleman what would be the effect. They could simply take up the outstanding certificates and reissue certificates equaling the value found by the court under this proceeding, whatever it might be, without one additional dollar being paid into the treasury of the company, as I understand it.

Mr. MANN. Under what authority of law is it that they could issue stock without paying in any money? There is nothing in the act that provides for the method of issuing the stock. Would they not still have to pay for the stock in cash?

Mr. SIMS. I do not think so.

Mr. FITZGERALD. There would be no restriction.

Mr. MANN. Then, if there be no restriction upon their issuing stock with this law as it stands, without paying cash, what restriction is there under the law for issuing stock without paying cash if this law is not in existence?

Mr. SIMS. There is no law authorizing the issue of one dollar of stock, except this.

Mr. MANN. There is nothing in this act that authorizes the issuance of stock.

Mr. SIMS. It fixes the value upon which they may issue stock.

Mr. FITZGERALD. Oh, no. There is no limitation upon the power to issue stock except what is contained in this section 5. If this section be repealed, then there is no limitation upon the power.

Mr. MANN. Is not there a general incorporation law in the District of any kind?

Mr. FITZGERALD. They have a special charter.

Mr. SIMS. They were chartered by act of Congress.

Mr. MANN. I know there is a general incorporation law in the District.

Mr. SIMS. If I understand the gentleman correctly, I will answer him. As I understand it, there is no law authorizing a public-service corporation to increase its stock, and it must be done by special act of Congress.

Mr. MANN. Then is there anything in their act of Congress authorizing them to issue stock?

Mr. SIMS. If this act is repealed?

Mr. MANN. Whether it is repealed or not repealed.

Mr. SIMS. No; I do not understand that there is. In fact, I understand it to be the contrary.

Mr. MANN. Then the authority to issue stock under this act is merely by implication? I would be inclined to think, unless the gentleman looked it up, that they have not relied entirely upon that. There must be some provision authorizing them to issue stock. Now, what this House does not want to do is to repeal an act which has some limitation upon the issuance of stock and thereby authorizing these companies to issue stock ad libitum.

Mr. SIMS. They can not issue a dollar, if this act is repealed, under the law of the District of Columbia, as I understand it; that is, not without special authority of Congress.

Mr. MANN. They can issue stock and add additions to their plant, can they not?

Mr. SIMS. Not under the law as it now is.

Mr. MANN. I think the gentleman is mistaken.

Mr. SIMS. They can not issue stock or bonds. That is my understanding. That is given to me by the District authorities here.

Mr. MANN. No doubt the House will pass the bill. The gentlemen on the committee have recommended it, and the people want it, but I wish the gentleman himself would look that matter up before this becomes a law, because we would feel exceedingly cheap here if we found in the end that we had repealed the only limitation there was, and that these companies could issue such stock as they pleased, thereby forbidding us in the future to reduce the price of gas.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

On motion of Mr. CAMPBELL, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent to extend in the RECORD my remarks on this bill and on the bucket-shop bill.

There was no objection.

ADMISSION TO THE GOVERNMENT HOSPITAL FOR THE INSANE.

Mr. SMITH of Michigan. I call up the bill (H. R. 12898) to change the proceedings for admission to the Government Hospital for the Insane, and for other purposes, so as to yield to the gentleman from New York.

Mr. OLCOTT. Mr. Speaker, I will say in regard to this bill that at the request of the gentleman from Florida [Mr. CLARK] I will ask that this bill go over until another District day. Therefore, I ask that it be passed without prejudice.

The SPEAKER pro tempore. Without objection, the bill will be passed without prejudice.

WASHINGTON, ALEXANDRIA AND MOUNT VERNON RAILROAD COMPANY.

Mr. SMITH of Michigan. I now call up the bill H. R. 15448.

The Clerk read as follows:

A bill (H. R. 15448) to amend section 12 of an act entitled "An act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railway Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes," approved February 12, 1901,

With an amendment to strike out all after the enacting clause and insert an amendment, so as to read:

"Be it enacted, etc., That section 12 of the 'Act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railroad Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes,' approved February 12, 1901, providing among other things that a standard underground electric system of street car propulsion shall be installed by the Washington, Alexandria and Mount Vernon Railway Company on the part highway leading to the new highway bridge, and that no dynamo furnishing power to said portion of the road shall be in any manner connected with the ground, is hereby amended by inserting after the words 'shall be paid by said company' the words *'Provided, however,* That said company, for the purpose of making the necessary change from underground to overhead wire in the conduct and operation of its cars at the north end of the new highway bridge, shall be permitted to use an approved overhead-wire system on the approach to said bridge for a distance of not more than 350 feet from the northerly or Washington end of the bridge; the location, construction, and maintenance of all parts of the overhead and underground systems, of the necessary plow pits, and of the asphalt or other paving between the tracks and the 2 feet outside thereof on the bridge and both approaches to be subject at all times to the supervision, instructions, and approval of the Secretary of War; and all instructions and requirements of the Secretary of War shall be fully complied with by the said company within the time specified, at its own expense and without cost to the United States.'"

Mr. SMITH of Michigan. I yield to the gentleman from Pennsylvania [Mr. MOORE] if anyone desires to ask any questions concerning the bill.

Mr. MOORE of Pennsylvania. Mr. Speaker, this is simply an engineering proposition. In the act intended to eliminate grade crossings passed in 1901, all trolley wires were directed to be put underground. In the approaches to the bridge over the Potomac it was found impossible to do this from an engineering standpoint. It was believed it would endanger the abutments of the bridge and affect its strength. It has been necessary in order that the cars of the Washington, Alexandria and Mount Vernon line might pass over the bridge to maintain the overhead wires for a distance of about 270 feet from the north side of the bridge, in the District of Columbia. The whole question comes under the jurisdiction of the War Department, which in compliance with the act of 1901, has ordered that the wires now in existence be placed underground.

The War Department is entirely satisfied to let them stand as they are, and the District of Columbia engineer commissioner suggests that this is the best thing that can be done. We are asked, therefore, to legalize the wires as they stand. Authority is asked for 350 feet of extension north of the bridge. There seems to be no particular objection to the bill. It is simply a question of legalizing the wires and poles already in existence and absolutely necessary for the proper transit of the cars.

Mr. UNDERWOOD. I would like to ask the gentleman from Pennsylvania to explain the engineering difficulties that prevent the underground wire. Is that a real difficulty or an imaginary one?

Mr. MOORE of Pennsylvania. It would seem to be very largely a question of expense, as well as one affecting the foundations of the bridge.

Mr. UNDERWOOD. How can the wire going under the bridge affect the foundation of the bridge?

Mr. MOORE of Pennsylvania. It would run under the piers and abutments. If you will allow me to quote from the report, something taken from the statement of the Engineer Commissioner of the District of Columbia, I think it will explain the situation.

Mr. UNDERWOOD. I would like to hear it.

Mr. MOORE of Pennsylvania. "As the Engineer Commissioner of the District of Columbia pointed out to the committee, the plow pits are now out of the way of vehicles and pedestrian traffic, where they harm nobody, and are as near to the bridge as they can be placed and continue to remain out of the way of traffic, whereas if they were put upon the bridge or its abutment they would be a dangerous nuisance."

Mr. UNDERWOOD. Wherein can they be more dangerous than where the lines run down the streets of Washington?

Mr. MOORE of Pennsylvania. I think if you were to examine the line, as I did this morning, you would find that perhaps the plow pits were placed in the very best position.

Mr. UNDERWOOD. As I understand, the plow pit is the groove connecting the car with the electricity?

Mr. MOORE of Pennsylvania. Yes.

Mr. UNDERWOOD. How can it be more dangerous to have that on the approaches to the bridge than it is down in the middle of Pennsylvania avenue?

Mr. MOORE of Pennsylvania. The engineers seem to think it would be.

Mr. UNDERWOOD. If it really would be, I believe the bill ought to pass; but if it is merely a matter of saving some cost, some expense to this company, when we have adopted a rule that in building these railroads in Washington we should have no overhead wires, I do not see any reason why it should be set aside in the case of this bridge unless there is some real engineering problem.

Mr. MOORE of Pennsylvania. Since I am not an engineer, suppose I quote a little further from the report of the engineer.

Mr. UNDERWOOD. I would like to hear it.

Mr. MOORE of Pennsylvania—

It would be difficult, if not impossible, to locate these plow pits upon the bridge or in the abutment, and it would be decidedly objectionable to have them located upon the bridge or its abutment, as the tracks are there in the center of the passage for highway traffic, whereas on leaving the bridge in the park the tracks of the railway curve to the easterly side and are out of the way of travel.

Mr. UNDERWOOD. That does not answer my question. The plow pit is right in the center of Pennsylvania avenue today, where every vehicle goes, and it is not considered dangerous. I have not heard of any vehicle receiving any injury from having the plow pits there. If you had it in the middle of the bridge, I do not see how it would be any more dangerous than it is in the middle of Pennsylvania avenue.

Mr. MOORE of Pennsylvania. I can only say to the gentleman that the judgment of the engineer is as I have stated. The War Department has approved of this statute and the District of Columbia engineer has approved of it.

Mr. UNDERWOOD. Has the gentleman in his report the language of the War Department approving the proposition?

Mr. MOORE of Pennsylvania. I have seen a letter from the Secretary of War which holds to the view that I have just given, and which states that the War Department has no objection to the passage of this bill as amended. Certain amendments were offered to the bill, and the Secretary of War made certain suggestions, and those suggestions were adopted by the committee. It is upon the strength of the statement of the Secretary of War to the committee that this report has been framed.

Mr. UNDERWOOD. I can readily see how the War Department may have no objection. For instance, in my town we have everything in the way of street cars run by overhead trolley, and it works very successfully.

Mr. MOORE of Pennsylvania. They have that on the Virginia side, where they operate under the laws of Virginia.

Mr. UNDERWOOD. But the absence of objection on the part of the War Department does not mean that the War Department thinks it would be dangerous or impossible to put the plow pits in the middle of the bridge. The system that we have adopted in Washington is to require the plow pits to be underground, and the underground connection made, instead of an overhead connection with the trolley, in order that the city may be a city beautiful; and I think it is a bad proposition, if it is merely a question of spending a little money, to make an exception to this rule. If there is a real engineering problem, of course we ought to grant the consent; but if it is merely a proposition to save this company a small amount of money and not make it put the current underground instead of overhead,

I do not think there is any reason for passing the bill; and from what the gentleman has read I can not see that he has given any engineering reasons why it should not be an underground current.

Mr. MOORE of Pennsylvania. Here is a very expensive bridge, built partly by the money of the Government and partly by that of the District of Columbia, and it was intended to add to the city beautiful here, as I understand it. To cut under the bridge and put this box or plow pit there would, in the judgment of the engineers, be an undermining of the structure of the bridge. In other words, it would affect the strength of the abutments and of the bridge.

Mr. UNDERWOOD. If the gentleman has something from the engineers which says that, we ought to know it.

Mr. MOORE of Pennsylvania. I have only that which has been read here.

Mr. UNDERWOOD. I do not see that the language which has been read to us conveys that idea. It merely conveys the proposition that the engineers of the District and the engineers for the War Department do not object. I do not see anything——

Mr. MOORE of Pennsylvania. May I ask the gentleman whether he is familiar with the location of this bridge?

Mr. UNDERWOOD. Oh, yes; I have passed over the bridge a good many times. It is a very handsome bridge, very well located, and I do not really see that the wires are in the way now; but it is merely establishing a precedent somewhere in Washington, letting them establish by law an overhead trolley, when the whole proposition has always been that we must have underground wires in this city, and I think we ought to stand on that proposition.

Mr. SMITH of Michigan. Is not the approach to the bridge much narrower than Pennsylvania avenue?

Mr. UNDERWOOD. I think it is narrower than Pennsylvania avenue.

Mr. SMITH of Michigan. That is one of the engineering difficulties that is objected to.

Mr. UNDERWOOD. It is much narrower than Pennsylvania avenue, but it is not narrower than a good many other streets on which the street cars run with an underground trolley. It is not nearly as congested as it is down on F street, and if it is not dangerous on F street, it would not be dangerous in crossing that bridge. So that I do not think the gentleman ought to press the bill on the idea that the engineers say that this is an engineering problem that has got to be met, unless some more specific facts can be obtained from the engineers to demonstrate that fact to the House.

Mr. MOORE of Pennsylvania. Suppose we leave the engineers out of it for a moment, and assume that a very large crowd is about to pass over from the Washington side to the Virginia side. Would it not appear to the gentleman that it would be very dangerous to have that plow pit right at the bridge itself rather than 270 feet distant, as it now is? Suppose a crowd was surging across the bridge and there should be a pressure at the entrance. Would it not be rather more dangerous to life and limb to have the plow pits right there at the entrance than to have them 270 feet removed?

Mr. UNDERWOOD. I can not understand why it should be more dangerous, because we have them in the streets of Washington. The only thing is that it will cost more money, perhaps; that it will cost this company considerable money to make the change, but we never hesitated before to spend money to put electricity underground.

Mr. MOORE of Pennsylvania. Will the gentleman suggest how the connection might be made between the underground trolley on the Washington side and the overhead trolley on the Virginia side, midway on the bridge?

Mr. UNDERWOOD. There is no necessity of making it midway on the bridge. There is no law on the Virginia statute book which will not allow you to carry it clear across the bridge.

Mr. MOORE of Pennsylvania. I am informed that the trolley is overhead on the Virginia side immediately after the crossing of the bridge, and the connection between the two would have to be made on the bridge.

Mr. UNDERWOOD. Not at all. I understand the law of the District of Columbia controls the entire river to the opposite bank. The entire bridge to the opposite bank is in the District of Columbia, and the change from the underground trolley to the overhead trolley does not have to be made until the car has crossed the bridge on the Virginia side.

Mr. MOORE of Pennsylvania. I rather think the gentleman from Alabama ought to consider the convenience of the people who are going across the bridge each day. If this change were ordered—that is to say, if the order of the War Department were carried into effect, and the overhead wires for this distance were to be removed—I think there would be a temporary cessation of travel, and it would be a great inconvenience to the people on the Virginia side who want to get in here daily. There would be a great inconvenience in reaching Washington if a continuous ride could not be had across the bridge.

Mr. UNDERWOOD. I think the gentleman is mistaken. If I recollect right, these cars are run every twenty minutes, and you do not find two cars on the bridge at the same time. They could put the underground trolley on one side of the bridge and run the cars on one side, and then put in on the other side of the bridge while the repairs were going on.

Mr. MOORE of Pennsylvania. Is it not a matter of inconvenience to travelers if they are made to get off the cars and walk 270 feet——

Mr. UNDERWOOD. They would not have to do that; they could put a switch below and run the cars on a single track instead of a double track, and put a flagman either side, and it is only a twenty minutes' schedule.

Mr. MOORE of Pennsylvania. With all due respect to the views of the gentleman from Alabama, I shall decline to discuss the engineering problem further, and call for a vote.

The SPEAKER pro tempore (Mr. CAPRON). The question is on the adoption of the committee amendment.

Mr. UNDERWOOD. Let the committee amendment be reported again.

The SPEAKER pro tempore. The Chair will state that the amendment is in the nature of a substitute and that it has already been read and is now before the House.

The question on the amendment was taken, and on a division (demanded by Mr. UNDERWOOD) there were 34 ayes and 21 noes.

So the amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended.

FIXING THE PRICE OF GAS IN THE DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I call up H. R. 18345, to fix the price of gas in the District of Columbia.

The Clerk read the bill, as follows:

Be it enacted, etc., That on and after January 1, 1909, no person, firm, copartnership, association, or corporation engaged in the manufacture and sale of fuel or illuminating gas in the District of Columbia shall sell or otherwise dispose of the same to any person, firm, copartnership, association, or corporation in the District of Columbia for a price exceeding 90 cents per 1,000 cubic feet.

With the following amendments recommended by the committee:

"Strike out of page 1, line 3, the word 'May' and insert in lieu thereof the word 'January.'

"Strike out of page 1, line 3, the word 'eight' and insert in lieu thereof the word 'nine.'

"Strike out of page 1, line 9, the word 'eighty' and insert in lieu thereof the word 'ninety.'

"Add in page 1, at the end of line 9, the words, 'such gas to be of the standard and quality required at the present time.'"

Mr. SMITH of Michigan. Mr. Speaker, there is a short letter from the Commissioners of the District in connection with the report that I would like to have the Clerk read.

The Clerk read as follows:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, March 6, 1908.

DEAR SIR: The Commissioners have the honor to state in response to your reference to them of H. R. 18345, entitled "A bill to fix the price of gas in the District of Columbia," that they are in favor of a reduction in the price of gas to whatever figure will yield a reasonable profit to the gaslight companies, as they have heretofore recommended to Congress. But, as they have also stated to Congress, they have not the authority or the means at present to determine what that price should be. They have recommended in their annual report that they be given the necessary authority and means to properly supervise the operations of all the public utility corporations in the District of Columbia, including the gaslight companies. If Congress will give the Commissioners the additional authority and means needed they will be able, with the advice of disinterested experts employed by them for the purpose of investigation, to arrive at the amount of reduction that ought to be made in the price of gas.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

Hon. S. W. SMITH,
Chairman Committee on the District of Columbia,
House of Representatives.

Mr. SMITH of Michigan. Mr. Speaker, like the Commissioners of the District, I, too, have been of the opinion for some time that perhaps the price of gas could be reduced in the District.

Mr. GAINES of Tennessee. Will the gentleman give the committee the price of gas in the District for the last ten or fifteen years, and how it is that it has been so high?

Mr. SMITH of Michigan. The price of gas net in Washington is $1 per thousand.

Mr. GAINES of Tennessee. We have had a great deal of legislation in the last ten years upon this subject. What was it before?

Mr. SMITH of Michigan. Previous to that time I think that gas was sold at $1.25 per thousand in Washington.

Mr. GAINES of Tennessee. Were not we paying more than that?

Mr. SMITH of Michigan. Yes; previous to that time we were. There have been one or two different reductions. I think the last reduction was eight or nine years ago; I don't remember the exact date.

Mr. GAINES of Tennessee. Has the gentleman the exact figures there?

Mr. SMITH of Michigan. I do not think I have.

Mr. GAINES of Tennessee. I think it would be very interesting reading, because I know the gas company has used some sort of influence for years here, persistently claiming and showing that to reduce the price of gas would be a confiscation, and I want it to go into the RECORD if I can get it there, as going to show that they were wrong and that Congress was right.

I remember one day here when we refused to pass a bill as reported by the committee and instructed the committee to go out and bring in a certain bill reducing the price of gas a great many cents. The distinguished gentleman from Iowa [Mr. HEPBURN], as I remember it, was the able gentleman who urged the reduction of the price of gas. I think he will remember the occasion. I do not think he ever got the bill back, either, that we directed the committee to bring back. I would like to know if you can give us the charges for gas for as many years as we can get them.

Mr. SMITH of Michigan. I will be glad to put into the RECORD that information. I have no doubt that it can be obtained. I have not the information at hand.

My remarks upon H. R. 18345 have been withheld until this time that I might obtain the information as requested by the gentleman from Tennessee [Mr. GAINES], and in response to a telephone message this morning the secretary of the Washington Gaslight Company has kindly sent me the following information, which, at the request of the gentleman from Tennessee [Mr. GAINES], I will insert in the RECORD as a part of my remarks:

WASHINGTON GASLIGHT COMPANY,
Washington, D. C., December 16, 1908.

HON. SAMUEL W. SMITH,
Chairman Committee on District of Columbia,
House of Representatives, City.

DEAR SIR: According to promise, I herewith transmit schedule of reductions in price of gas in this city from January 1, 1867, to July 1, 1901, and there has been no change since July 1, 1901, to the date of this communication.

Very respectfully, W. B. ORME, *Secretary.*

Price of gas and reductions in the same at Washington, D. C.

Date.	By the company.	By act of Congress.
Jan. 1,1867	$4—7½ per cent=$3.70	
July 1,1867	$4—12½ per cent=$3.50	
July 1,1868	$4—15 per cent=$3.40	
Nov. 1,1869		$4—18¾ per cent=$3.25.
Aug. 1,1872	$3.75—20 per cent=$3	
July 1,1874		To United States and District of Columbia, $2.50.
Do		To other consumers, $2.75 less 25 cents, $2.50 net; street lamps, 2,200 hours, 6 feet per hour, $40 per year.
May 1,1876	$2.50—25 cents=$2.25; street lamps $36.70.	
July 1,1878		Street lamps reduced to $32.
Jan. 1,1880	$2.25—25 cents=$2; street lamps reduced to $28.70.	
July 1,1881	Street lamps to $25	
Jan. 1,1882	$2—25 cents=$1.75	
July 1,1883	$1.75—25 cents=$1.50; street lamps to $22.	
July 1,1886		Street lamps reduced to $20.
Oct. 1,1886	$1.50—25 cents=$1.25	
July 1,1891		Street lamps increased to $21.50 and 3,000 hours, instead of 2,600 hours as heretofore.
Nov. 1,1893	$1.25 net	Same as above.
July 1,1896		Street lamps $20; consumers, private, $1.25—15 cents=$1.10 net; consumers, United States and District of Columbia, $1 net.
July 1,1901		Consumers, $1.25—25 cents=$1.

Mr. GAINES of Tennessee. I wish the gentleman would put it into the RECORD, so that we can have some vindication of the judgment of this House, that the gas rates in this District were outrageous, that they were oppressive, that they should have been reduced, and they could have been reduced without confiscating the gas company's property, and let it go into the RECORD.

Mr. SMITH of Michigan. Now, Mr. Speaker, I was about to say that the committee, in the investigation of this matter, heard two distinguished experts. One was Edward W. Bemis, of Cleveland, Ohio, and he was heard upon both the subject of the repeal of the fifth section, which has already passed the House, as well as upon the question of the reduction of the price of gas. As to the first proposition, that bill having passed, I will not spend any time respecting that portion of his statement, although I would like to insert, as a part of my remarks, the statements of Mr. Bemis and Mr. Humphreys, given before the committee.

The SPEAKER pro tempore. Without objection, permission will be given.

There was no objection.

Mr. SMITH of Michigan. Upon the question of the price of gas Mr. Bemis gave it as his judgment to the committee that gas could be manufactured in the city of Washington for 58.9 cents, and I think in another portion of his testimony the outside figure claimed was 62 cents. Mr. Bemis also gave it as his judgment that the maximum price of gas in the city of Washington should be 85 cents. But, Mr. Speaker, no one can read the statements of Mr. Bemis and Mr. Humphreys without coming to the conclusion that these gentlemen were at that time in a large measure unprepared to give the committee their best judgment for the reason they had not had sufficient time to visit the plant and to make a satisfactory examination.

The committee heard Mr. Bemis for an hour and twenty minutes. Subsequent to that time the committee also heard another distinguished expert, Mr. Alexander C. Humphreys, for an hour and thirty minutes, and upon some questions these gentlemen differed, questions that are certainly very material in determining what is a fair price for gas. I shall not take the time now to go into the details, but I desire to say upon one important question, which is very material to the people of the District, particular stress was laid, and that is this: Mr. Humphreys insists that we do not need in this city gas at 22 candlepower, but that we could get along with gas at 17 candlepower, and both he and Mr. Bemis agreed upon this, that the difference in price would be 5 cents per thousand. It seems to me that this is a very material matter in the final determination of this subject, for if it shall be found that a fair price for gas at 22 candlepower is 85 cents, 90 cents, 95 cents, or a dollar, it is of the utmost importance that we make sufficient further inquiry to know whether or not in the city of Washington we shall have gas at 22 or 17 candlepower. Both the experts agree that the reduction from 22 to 17 candlepower will save the consumer 5 cents per thousand. There are but three or four cities in the Union that have 22 candlepower gas.

It is suggested to me that it is twenty-three. As I remember the law, it is twenty-two. Now, Mr. Speaker, Mr. Humphreys in his testimony frankly admitted that he had not had an opportunity to examine the gas plant in late years, although his testimony does disclose that he had been sent here on different occasions during the last eight or ten years to examine the same, and as I remember the testimony of Mr. Bemis, he was never called here, but both of these gentlemen are agreed on the fact that ample time should be taken and opportunity be given for the examination of these matters before a final conclusion is reached. Mr. Humphreys told the committee that gas in the city of Washington at $1 per thousand was right. Now, after the committee listened to Mr. Bemis for an hour and twenty minutes and to Mr. Humphreys for one hour and thirty minutes, making less than three hours altogether that the committee listened to these two distinguished experts, the committee struck, so to speak, a middle price between what Mr. Humphreys thought the price of gas ought to be in the city of Washington and what Mr. Bemis thought it ought to be and reported this bill to the House at 90 cents.

Mr. DRISCOLL. Will the gentleman yield for a question?

Mr. SMITH of Michigan. Certainly.

Mr. DRISCOLL. I would like to have the gentleman state in what manner either of these two gentlemen arrived at their conclusion or in what manner the committee arrived at the conclusion which they reached.

Mr. SMITH of Michigan. I have just stated.

Mr. DRISCOLL. For instance, what rate of interest did they allow on the stock in coming to this conclusion of 90 cents?

Mr. SMITH of Michigan. As I remember the testimony of these gentlemen, 6 per cent.

Mr. DRISCOLL. Both agreed on 6 per cent on the stock?

Mr. SMITH of Michigan. There was no material dispute on that question, as I now remember it.

Mr. DRISCOLL. I suppose the franchise was not considered in that matter at all, was it?

Mr. SMITH of Michigan. Mr. Bemis, as I remember the testimony, took one view of that, and Mr. Humphreys, who has been connected with gas companies for many years and is himself a stockholder, and a large stockholder, in gas companies here, as well as abroad, entertained an entirely different view

from Mr. Bemis upon that question. I understand—and I think it is the general understanding—that the Supreme Court of the United States, if it did not hand the opinion down today, will likely hand down an opinion on almost any Monday bearing upon that question.

Mr. CAMPBELL. That is in the New York case.

Mr. SMITH of Michigan. That is in the New York case. I understand that question is involved with several other important questions.

Mr. DRISCOLL. Does not the gentleman think he ought to reserve the bill until that opinion is handed down?

Mr. SMITH of Michigan. No; my regret is that we did not have more time, better opportunity, and better facilities to make the investigation. In other words, had time in proportion to what we took last session to investigate the proposition of getting the tracks to the Union Station and the cross-town extension, time we took to investigate the prohibition question, if you please. Those were questions which seemed paramount at the time, especially the railroad question, and we spent a great deal of time upon them.

Mr. DRISCOLL. Did the committee consider this case in that manner?

Mr. SMITH of Michigan. I have stated frankly, and I think the other members of the committee will bear me out, that after listening to the two experts, one for an hour and twenty minutes and the other for an hour and thirty minutes, less than three hours, the committee recommended the bill as I have said.

Mr. HEPBURN. May I ask the gentleman a question?

Mr. SMITH of Michigan. Certainly.

Mr. HEPBURN. I understood you to say that you had two experts before the committee?

Mr. SMITH of Michigan. Yes, sir.

Mr. HEPBURN. And that the committee refused to agree with either of them?

Mr. SMITH of Michigan. That is so.

Mr. HEPBURN. And arrived at their conclusion how?

Mr. SMITH of Michigan. As I said, one of the experts fixed the price at a dollar, and the other at 85 cents, and the committee reported a bill at 90 cents.

Mr. HEPBURN. If the committee is going to be exact, it ought to have been 92½ cents, ought it not?

Mr. SMITH of Michigan. Yes; that is so.

Mr. HEPBURN. Well, now, when the committee were considering this matter what valuation did they put upon the plant?

Mr. SMITH of Michigan. That is stated in the report. Both Mr. Bemis and Mr. Humphreys in giving their testimony and fixing the price took into consideration the last report of the gas company for the last year.

Mr. HEPBURN. I understood you to say one of these experts had never seen the plant and that the other had not seen it for eight or nine years.

Mr. SMITH of Michigan. Mr. Humphreys had not seen it for some time so as to make a careful examination. He had been here on one or two former occasions and made a careful examination. I do not want to do Mr. Bemis any injustice, but as I remember the testimony he had not visited the plant; certainly not at the time when he testified.

Mr. HEPBURN. And then how did they arrive at the value of the plant?

Mr. SMITH of Michigan. It is only fair to say of either of these gentlemen that their testimony was very largely general. They had to give it in that way.

Mr. HEPBURN. Did they include the franchise or any part of it in their valuation of the plant?

Mr. SMITH of Michigan. I do not think Mr. Bemis did, and I do not recall that Mr. Humphreys did.

The gentleman from New York [Mr. DRISCOLL] asked me a question a moment ago with reference to the report of the committee. If it were not for the prejudice which seems to be prevailing in some quarters, it would seem to me that it would have been well for the committee even now to further consider and take more testimony, but the committee have reported the bill, it is on the Calendar, and I assume that when it goes to the other end of the Capitol they certainly will be able to spend more time and make a more careful and thorough investigation than the House Committee on the District of Columbia did in the short time that we had in which to investigate the matter.

Mr. DRISCOLL. And they will probably hold it up until the decision comes down.

Mr. SMITH of Michigan. Well, I do not know. I now yield to the gentleman from Wisconsin [Mr. STAFFORD].

Mr. STAFFORD. I have listened very attentively to the explanation that has just been made by the chairman of the committee, but after following him closely I must say I have come to the conclusion, as I believe most of the Members must have come to the conclusion, that the price that has been fixed upon in this bill is merely a guess. If anything justifies the appointment of a public-utility commission to investigate this and kindred subjects, it is the statement that has just been made by the chairman. He states that it has been utterly impossible for the committee, on account of lack of time, to examine into it as it should have been examined into. And that committee might have spent a hundredfold the length of time that it has taken, and they, not possessing expert knowledge to go into the technical details, would have been enveloped in a maze of difficulties that would have prevented them from arriving at an intelligent decision, just as they have after this bare inspection of three hours of a very important question.

We do not know from the statement and investigation made whether we are doing justice to the capital invested or justice to the consumer. But the time is coming, I wish to say, when a public-service commission will have to be created in order to pass upon the returns to these public-service corporations and the price they may charge for services to the public, such as street railway fares and the price of gas and the price of electric light; for Congress has not the time in which to properly investigate those questions. We give too much time as it is to the consideration of these District measures, and it will be necessary in the future to have a public-service commission that will pass intelligently upon the questions involved so as to report to Congress what should be the reasonable rate to the consumer of these public-service corporations. Not upon the investigation that has been made in this case, but upon the general reduction in the price of gas in other municipalities, will I support the reduction in the price of gas to 90 cents, or even lower.

Mr. GAINES of Tennessee. I would like to ask the gentleman from Michigan [Mr. SMITH] a question.

The SPEAKER pro tempore. Does the gentleman yield for a question?

Mr. SMITH of Michigan. I do.

Mr. GAINES of Tennessee. A few days ago we had up the legislative, executive, and judicial appropriation bill, and it developed in the course of the debate on the several items that we are paying $471,000 a year rent for offices for the government service. Now, does the gentleman know whether that rental is reasonable or not; and if it is unreasonable, what would be reasonable? And what is the judgment of the gentleman as to what Congress should do—continue to rent offices or proceed with some policy as to establishing a proper number and quality of buildings?

Mr. SMITH of Michigan. My judgment has been for some time that the Government could well afford, when it can borrow money for 2 per cent, to erect its own buildings and not pay rent.

Mr. GAINES of Tennessee. I am going to ask the gentleman another question. Is it the duty of your committee to look after that sort of thing?

Mr. SMITH of Michigan. No, sir. I should think it would be the duty of the Committee on Appropriations. They, as I am informed, have taken that matter up, and I think a member of that committee visited—at least, if they did not, some one in the last year or two visited—these various buildings that are being rented by the Government and determined as to whether or not there was a fair rental being paid. As I remember it, the report was, in substance, that the Government was paying a fair rental for the buildings rented.

Mr. GAINES of Tennessee. Well, the chairman of the Committee on Appropriations stated the other day that it was not pertinent to bring in relief in the bill then pending. It would seem the Committee on Appropriations has not jurisdiction of it, and I would like to locate the committee of Congress that has jurisdiction.

Mr. JOHNSON of South Carolina. The Committee on Public Buildings and Grounds.

Mr. GAINES of Tennessee. I think it is a reform that ought to be brought about.

Mr. BONYNGE. Will the gentleman allow me as ask him a question?

Mr. SMITH of Michigan. Certainly.

Mr. BONYNGE. What is the price charged by the gas company in the District of Columbia now?

Mr. SMITH of Michigan. A dollar net.

Mr. BONYNGE. Does the statute fix the price at a dollar?

Mr. SMITH of Michigan. A dollar and twenty-five cents—a dollar net.

Mr. BONYNGE. Can the gentleman tell what the price fixed by law is?

Mr. SMITH of Michigan. One dollar and twenty-five cents—a dollar net.

Mr. BONYNGE. Is that the way the law reads—that the law permits the gas company to charge a dollar and twenty-five cents or a dollar?

Mr. SMITH of Michigan. As I understand, $1.25—$1 net.

Mr. BONYNGE. The statute permits them to charge a dollar and twenty-five cents?

Mr. SMITH of Michigan. As I understand it.

Mr. WILLIAMS. And for cash a discount of 10 per cent.

Mr. BONYNGE. Is the standard of quality of the gas specified?

Mr. SMITH of Michigan. Yes, sir; 22 candlepower.

Mr. BONYNGE. When was the law passed fixing the price at $1.25?

Mr. CAMPBELL. Eighteen hundred and ninety-six.

Mr. SMITH of Michigan. Before I came to Congress.

Mr. MANN. Will the gentleman yield to me for a question?

Mr. SMITH of Michigan. Yes, sir.

Mr. MANN. Under the existing law the gas company makes out a bill at the rate of $1.25, or a dollar if the bill be paid before a specified time. Now, the proposition is to do away with that system entirely. Is it not desirable that there be some premium given to those who pay their gas bills promptly?

Mr. SMITH of Michigan. I think so.

Mr. MANN. But you do away with that entirely.

Mr. SMITH of Michigan. Yes, sir.

Mr. MANN. Upon what theory do you change that method, which has been adopted by every municipality in the country?

Mr. SMITH of Michigan. There is no theory about it. I have stated the case as correctly as I could, and I think every member of the committee agrees with me. After listening to one gentleman for an hour and twenty minutes and to another gentleman for an hour and thirty minutes, some one made a motion that the price of gas be 90 cents.

Mr. MANN. That is not the idea—that the net price of gas be 90 cents. Whereupon, without any consideration, without a vote, without any further consideration, it was passed.

Mr. SMITH of Michigan. Without any further consideration. I think I have stated that in the statement I made as to how this bill was reported to the House.

Mr. MANN. Well, the gentleman himself, I know, has given consideration to the subject. Therefore may I appeal from his action as chairman of the committee to his individual opinion? Ought there not in any bill fixing the price of gas to be some arrangement by which there can be given a preference to those who pay their bills promptly?

Mr. SMITH of Michigan. Yes, sir; I think that is a fair proposition.

Mr. MANN. Now, another thing I would like to ask the gentleman. This bill not only fixes the price of gas for those companies which have been created by act of Congress, but undertakes to say at what price one individual shall sell gas to another individual, without regard to any act of Congress. Have we the constitutional power to do that?

Mr. SMITH of Michigan. That is a very nice question.

Mr. MANN. Can we say at what price butter shall sell; can we say at what price clothes shall sell; can we say at what price gas shall sell, where it is not in a sense sold by a public-utility corporation or by anybody who derives their right from Congress?

Mr. SMITH of Michigan. I do not know whether the bill will bear the interpretation the gentleman puts upon it in that respect.

Mr. MANN. Well, it says "no person."

Mr. MACON. Can not the gentleman make any distinction between a case of public utility?

Mr. MANN. I make the distinction; but that is the point I am trying to make the distinction in—whether this bill is constitutional or whether it will go the same way as the last bill went fixing the price of gas at a dollar; then after a delay of years it was found that it was unconstitutional.

Mr. MACON. We have power under the Constitution to fix the sale of any public utility.

Mr. MANN. We have the power to control a public utility, but this bill says—

Any person, firm, copartnership——

Mr. MACON. Oh, yes; "person."

Mr. MANN (continuing)—

association, or corporation engaged in the manufacture or sale of fuel, illuminating gas in the District of Columbia, and so on, shall sell or otherwise dispose of the same at a price exceeding 90 cents per thousand.

Now, I very much doubt the power of Congress, if I establish a plant down here without asking anything of Congress—whether I shall sell gas to my next-door neighbor or some one in the same building—to say at what price I shall sell it, as long as it is in no way a public-utility matter, deriving no authority from an act of Congress.

Mr. SIMS. Mr. Speaker, there has been great agitation here for a long time in the public press, or part of it, for cheaper gas and better service. I do not remember how many bills have been introduced, but I must insist that the committee did try to have hearings and have the matter investigated as far as it was possible for a committee to do so. Several times when we fixed days for hearings on one or the other of these bills (we heard them together because they were related) one of the gentlemen who was to appear before us in behalf of the gas company was ill, and we adjourned the hearings several times in order to have that gentleman before us to give his views as to the Washington and Georgetown gas companies but his illness continued, and it was impossible to hear from the gas company or to get facts as to the company given by a person connected with it and familiar with it. Finally Mr. Bemis was brought here, as I understand, upon the employment of a Washington newspaper, and qualified as a gentleman having knowledge of such subjects.

I may not state exactly what he said, but I think I give the substance. As to this particular company, he had made no investigation and knew nothing about it except what he gathered from the reports of the Washington and Georgetown gas companies made to Congress. From those reports he made a statement to the committee, saying that without an investigation of this plant it was impossible for him to be exact. Then finally came before us Mr. Humphreys, I believe, of Buffalo, N. Y., who qualified as a gas expert, and I believe he stated that he appeared at the request of the Washington Gas Company. He made his statement not from an examination of the plant, but from the reports of the gas company to Congress. I want to read to you what Mr. Bemis said about this matter relating to the price of gas. Remember that both these gentlemen gave opinions as to the effect of the capitalization clause of the act of 1896, but I only want to read what they said, or a portion of what they said, bearing as pointedly as possible upon this question. Mr. Bemis said:

Now, I want to say a word about the question of the price for gas, assuming for the moment that you have desired to consider that when this other matter is out of the way. Any full consideration of either the price of gas or proper capitalization can only come after a very considerable study—a study by expert engineers, a study by expert accountants. In any case which I have ever been connected with there has been a large amount of time necessary for such investigations. Even the smaller cities of 50,000 population have found it necessary to go into the matter quite exhaustively. The company will do that, and the public must do it in order to present its side of the case, and the court should have all of that information before it. It would certainly be impossible for me to go into a full consideration of the proper price in Washington with the very small amount of available data at present. All I shall attempt to do will be merely to call your attention to two or three things, which I think no one will controvert.

* * * * * * *

The CHAIRMAN. What course do you think we ought to pursue in order to get at a fair price for gas in the city of Washington? I wish you would indicate just what you think we ought to do.

Mr. BEMIS. I think you ought to repeal this law, and have a thorough investigation of the books of the company running back several years, going fully to every account as to what it costs them, find out just how much it has earned out of their dollars and put in the plant every year, and just what it has cost them before they did that. Also get some idea of the average expense as compared with last year, and whether last year was normal or abnormal.

The CHAIRMAN. You do not think we can get at the price to fix by spending an hour in this way, with all due respect to you?

Mr. BEMIS. No; and I do not come——

Mr. NYE. Your conclusion ought to be worth something to us, however.

Mr. BEMIS. Of course you can do this: You can pass an act making a reduction, assuming that the courts will not hold it to be confiscatory, and that the courts will declare it confiscatory if it does reduce the price too law. You can pass an arbitrary act saying that you think that the circumstances justify 80-cent gas, or whatever you fix, and leave it to the courts to go into the investigation. Undoubtedly some time or other there will have to be an investigation. Make it 75 cents if you wish; but I think it would be better if you can have this investigation, and if you can do that I think you can pass an act making a comparative reduction, but not going to the extreme limits, and then leave it to the courts for further investigation.

Now, that is the testimony of the witness who appeared on behalf of the consumers, or on the side of the reduction of the price of gas. He concludes from an investigation of the reports of the gas company that the price of gas can be reduced in the city of Washington. I asked him this question:

Mr. SIMS. Considering the gas that is made here, 23-candlepower, and taking into consideration such facts as you have been able to gather from your limited investigation, what do you think the maximum reasonable price for gas to private individuals in this city should be?

Mr. BEMIS. It should run somewhere between 75 and 85 cents. It might be as low as 75 cents, and it might be as high as 85 cents. But

I do not like to take a very decided stand without having an opportunity to go into it further.

Mr. SIMS. It would be more of an estimate than a scientific conclusion?

Mr. BEMIS. Yes.

Now, Mr. Humphreys, who appeared in behalf of the gas company, and who beyond any question qualified as an expert, stated in substance, from the reports of the Washington Gas Company, taking into consideration the high candlepower required, the price of coal and materials, and all expenses as shown by the report, that a dollar a thousand for gas in this District was not unreasonable.

With nothing else before us and with no opportunity of having anybody else before us, for there is no appropriation to authorize us to employ experts to make a physical examination of the properties and every element entering into the cost of making gas in Washington City, we did the best we could. I am not here to urge that it is absolutely correct, because the experts themselves base their conclusions on the report of the gas company and nothing else except their general knowledge.

I thought it was more important, and think so to-day, to pass the bill repealing the capitalization clause of the act of 1896 than it was to pass this bill, because this bill at 90 cents is a compromise between 80 cents and $1, the amounts named by these respective witnesses, and is not the result of specific detailed information. Further, both of these experts agree that each gas plant was, so to speak, an individuality; that you could not well classify them, and to have a proper price, just to the consumer and just to the producer of gas, the gas plant itself should have a careful and critical examination by experts qualified to pass upon it.

Now, there was great demand for action by the committee for the reduction of the price of gas, and the committee have done all that it could with the limited means at its disposal, and as a result has brought in this bill. I think that the gentleman from Illinois [Mr. MANN] is correct in his criticism.

The bill ought to be amended to that extent, at least, of providing a price and a discount similar to existing law, as I believe is done with gas companies everywhere; but this amendment can be made here or at the other end of the Capitol. This is simply in the nature of a compromise price that we did not think under the evidence was too low, which is a reduction of 10 per cent on all gas furnished private individuals.

Gas may not be worth over 75 cents as made here under the law and requirements in force here, and it may be worth 85 cents or 90 or 95 cents or $1. The experts do not agree on the same state of facts. I am not an expert, and could not know which of the experts seems to be the best sustained in his conclusions by the statements made.

Mr. MADDEN. Mr. Speaker, I regret to see the committee report a bill for 90-cent gas. I hoped that the committee would see its way to report in favor of a much lower price. The cost of gas to the consumers all over the country is being lowered continually, and I think the price provided in the bill introduced by me some time ago of 75 cents was nearer justice to the people who consume gas than the price which is sought to be fixed in the bill reported by the committee. The company having the right to manufacture and sell gas in the District of Columbia has a capitalization of $2,600,000, on which, according to its report, it pays 10 per cent dividends. This company also has $2,600,000 of interest-bearing certificates on which, I believe, 6 per cent interest is paid annually. In addition to that it has about $593,000 in bonds on which it pays interest, and all of this stock, bonds, and certificates of indebtedness have been created out of the earnings of the company.

No very large amount of cash was ever invested in this enterprise. The company, in addition to the payment of this interest charge and these dividends, sets aside a large amount of money every year—I have not the figures in my mind—for depreciation of the plant, and also sets aside a large sum annually for the construction of new mains and the extension of the plant. A company that is able to build additional facilities to enable it to supply additional consumers out of the earnings after paying dividends at the rate of 10 per cent on the stock that is quoted in the market at 67 for a $20 share ought to be able to sell gas at 75 cents.

Mr. SIMS. The gentleman from Illinois says 67 cents. He means it is quoted in the market at $67 a share on a par value of $20.

Mr. MADDEN. I supposed the shares were $100 par value. Then the stock is three times more valuable than the face of the certificate. Well, this great value attaches to the stock because of the enormous earnings of the company, and the enormous earnings of the company are created by the fact that the company is permitted to charge for the gas exorbitant prices. The fact is that at 75 cents a thousand cubic feet the company would be able to pay handsome dividends, not only on the money it has originally invested in the enterprise, but on the wind and the water it has seen fit to inject into the capitalization of the company.

If this stock is worth $67 for every $20 that the certificate says the company has invested, everybody can see that the value has been made by the privileges that have been granted by the public through the legislation granted by Congress, and I hope that the chairman of the committee having charge of the bill will be able to see his way clear to offer an amendment to the bill of the committee reducing the price proposed to be paid in the bill and making that price 75 cents instead of 90. If, on the other hand, it is determined by the committee to insist upon the figures named in the bill, I am so anxious to see some reduction in the price made to the consumer of gas in this District that I would even be willing to vote for 90 cents rather than not see any reduction made at all.

Mr. McMILLAN. Mr. Speaker, before this bill is passed upon, because of the differences in opinion and of the different issues that have been raised by men who are deeply interested in the burning of gas, a commodity to-day that furnishes light, heat, and fuel to the home of everybody, rich and poor, the matter should be well considered. There is no man here to-day on this floor who can say that the expert examination was made by men fully qualified as experts. Because of this fact I shall move that this bill be recommitted to the committee. The real issue is the cost of the production and the cost to the consumer. This city should be the mother influence that goes over the whole country and should name the price, not only in Washington, but in New York and Chicago and in every city in our Union. Let us have the best experts; let us have men worthy of being called experts to pass upon this question. Let us have this issue intelligently investigated by men who are fit to do so. I move that this bill be referred back to the committee.

Mr. SMITH of Michigan. Mr. Speaker, I desire to say that I am in hearty sympathy with the suggestion that, so far as possible, Washington in all these matters of public-service corporations should set an example to the country, but, as the gentleman from Tennessee [Mr. SIMS] said a few moments ago, this committee has no money with which to do these things, and the only way in which, in a measure, the suggestion of the gentleman from New York [Mr. MCMILLAN] could be carried out would be either to authorize the Commissioners of the District, as they have repeatedly requested, to do this work, or to have a separate commission. I have no idea that this Congress will do either.

I have no hesitancy in saying that we as a committee should have made further investigation, but I do not know where or how we would have procured any expert testimony. You must remember that Mr. Bemis was brought here by one party and Mr. Humphreys by another, and that as a committee we listened to their testimony. I for one would have been glad to have spent more time, but I see nothing now to be gained by rereferring this bill to our committee. Let it go to the other end of the Capitol, and let them further investigate, if they so desire.

Mr. WILLIAMS. Mr. Speaker, I would like to ask the gentleman a few questions. This bill does reduce the price of gas in the District of Columbia?

Mr. SMITH of Michigan. Yes.

Mr. WILLIAMS. And the price of gas in the District of Columbia now is too high, is it not?

Mr. SMITH of Michigan. I want to say as I have said before that I have thought and still think that gas might be sold in Washington at less than a dollar a thousand. The gentleman a few moments ago referred to the price of gas in different cities. If there is any one thing that is disclosed in the testimony of Mr. Bemis and Mr. Humphreys in this case, it is that the only way in which you can decide is to take each city by itself. Within the last few weeks the city of Indianapolis has passed a franchise fixing the price of gas at 60 cents a thousand. In the city of Saginaw, in Michigan, Judge Gage, one of Michigan's ablest judges, recently handed down an opinion in which he declared that 90 cents a thousand for gas in that city was confiscatory. Therefore, as both of these experts said to us, the only way you can get at these matters is to take each city by itself and all the facts and circumstances connected with the subject, in order to determine what the price of gas should be in that particular city. I ask the Members of the House, to read the testimony of Mr. Bemis and Mr. Humphreys which I will insert as part of my remarks in the RECORD, and I feel sure they will certainly come to the conclusion that there ought to have been a further and more thorough investigation of this matter. The committee has made this report, and it is before the House. It becomes my duty to ask the House to accept it.

COMMITTEE ON THE DISTRICT OF COLUMBIA,
Wednesday, April 8, 1908.

Committee called to order at 10.25 a. m., Hon. SAMUEL W. SMITH in the chair.

PRICE OF GAS, WASHINGTON, D. C.

Statement of Mr. Edward W. Bemis, of Cleveland, Ohio.

The CHAIRMAN. Mr. Bemis, will you please state your name, your residence, and your profession?

Mr. BEMIS. I am superintendent of the waterworks at Cleveland, Ohio, a position that I have held since the fall of 1901. Before that I had been engaged in college teaching for ten years at the University of Chicago, and elsewhere, and that also been engaged in statistical investigations of municipal work, particularly with regard to gas. During the last few years I have been appearing before courts and commissions quite extensively in connection with gas cases, more particularly in connection with fixing the price for gas; for example, in the last three or four years I have appeared before the New York State Commission a great many times in connection with the price of gas in New York City, Syracuse, and Buffalo, and before the federal court or referee appointed by the court in the New York gas case.

I also have done work in court for Saginaw, Mich., and Cedar Rapids, Iowa, and have done work for Chicago, Boston, Montreal, Baltimore, and several other cities. My work has not been directly that of a gas engineer, for I have never been engaged directly in the gas business. Of course, my work at the waterworks has been more or less along the same lines in some ways—that is, the distribution system is somewhat similar; the methods of handling business are somewhat similar—but I have gone into it more directly in connection with the statistical and financial side. I may say also that I was one of the committee of five of the National Civic Federation that had to do with the very extensive investigation of municipal ownership in this country and in Europe. There was a larger committee, but a subcommittee was appointed of five to do the work, hire the experts, write the report, and I was one of that subcommittee, going abroad with the experts and visiting a good share of the large gas and electric light plants of Great Britain and a number in this country.

I make that statement at your request as a general introduction. I may say, by the way, that as I go on I have no objections to any interruption, and at the close I will expect a good many questions.

As I understand it, the committee has to do primarily with the repeal, or the demand for the repeal, of a certain section 5 of the gas laws of the District of Columbia with respect to the capitalization of the gas companies here and at Georgetown, but that the larger question of the proper price for gas comes up directly, that you wanted both questions more or less considered. As a matter of fact, they can not be separated. It may be from many points of view immaterial whether you have a million dollars of stock worth 300 on the market, every share representing $300 worth of property, the share itself having a par value of $100, or whether you have $3,000,000 of stock worth $100, or $6,000,000 of stock worth $50. It all amounts to the same thing in the total market value. Nevertheless, if the Government is going to do anything in the regulation of capitalization, it is quite common for the courts, and even for public opinion, to consider that there should be some relation between that capitalization and a proper investment on which to compute a proper profit in fixing the price of gas; and therefore the capitalization that is allowed does seem to have, whether we think it ought to or not, some influence upon the courts and public opinion with respect to the question of price. I refer to nominal capitalization as represented in so many nominal shares of stock.

Now, in approaching this subject, we do not have as many precedents as you might expect from the importance of the subject. It is to a considerable degree still untried, and you can feel, I think, that you are making history on this question. You can also feel that, although there are not so many precedents at present, public opinion is rapidly forming in certain directions, and will undoubtedly in the future look back with a good deal of criticism or approval upon what is now done, as it is so important.

Now, first, regarding capitalization, and then in regard to the price.

The present law, as I understand it, in the District of Columbia aims to allow a company, whenever it comes before the proper authorities, to capitalize any earnings that have gone into the plant or into the property. There is a dispute as to what the word "plant" means, I understand, but anyway the earnings have been invested in something, and if it can be shown to the court, the theory of the law seems to contemplate that it may be capitalized.

Now that needs to be examined in the light of two theories that have largely prevailed in recent years with regard to how to treat profits that come from the consumer, for that is what it means, capital that the consumer furnishes. It is not claimed that it is capital directly furnished by the stockholders. The stockholder has furnished capital, and he gets his dividend—in this case 10 per cent—but in addition to that the consumer has furnished a large amount of capital, how much is not yet definitely stated, and the company demands the right to capitalize and earn dividends on that.

Now, there have been two theories with regard to how to treat such profit as comes from the consumer. One theory has prevailed very largely in Massachusetts ever since perhaps the creation of a commission in 1885, and it is this: The company, under this theory, should be encouraged to earn for a while more than it is permitted to divide into dividends, more than the law would consider proper, or public policy would consider proper to earn if it were to go to the stockholders. The idea is that the amount that the company shall be allowed to earn in excess of the proper amount to distribute will be put into the plant, not, however, to go to the stockholder, but to stay there until some future time when perhaps the money the stockholder furnished does not represent more than half or third of the investment, the money the consumer furnished representing the rest. There will thus come a time after a while when the plant has become very large, but with a very small nominal stock. Then the consumer will get the benefit of the capital thereafter furnished, and the company will continue to be allowed to give dividends upon what the stockholder has furnished, but not upon what the consumer has furnished; and ultimately the consumer will get a very low price for gas.

The theory has been strongly held, but it has had very grave difficulties in the courts—there has been no formal adjudication of this subject, the case coming up first in Haverhill, Mass. There the gas commission ordered a reduction in the price of gas that would leave only the usual dividend on the small amount of stock that the company had itself furnished, which was only one-fifth of the actual physical value of the property, the rest having all come from earnings. The company refused to obey the decision of the commission, and the case has not yet been adjudicated in the courts. There is some claim that the commission has hesitated about bringing the case to a head for fear it would lose, although a member of the commission now tells me that they are expecting to bring it to a head this year and get a decision. But it has been in the courts for six or eight years, and there has been a growing feeling that it was rather dangerous for the consumer to furnish capital with the idea that he ever would get it back again or get benefit from it. It is more than likely if he does not eat his cake when he can get it, he never will. If the profits are once allowed to go into possession of the company and furnish its capital, it is probable that the consumer will never enjoy the benefits of it, but that the company will. That has become so strong a feeling of late that the Massachusetts commission has changed its attitude on the subject and is insisting upon reductions at present in the price whenever cases come before them rather than to allow the profits above a reasonable dividend to go into the plant without capitalization. And the tendency of legislation of late has been along the same line.

There has, however, been another theory which has been more largely prevalent in Europe, especially in England, which is that the consumer shall get the benefit immediately of the profits of the company; that the company shall not declare more than certain dividends, neither shall it earn more, and all beyond that shall go immediately to a reduction of the price; and if the company wants more capital it must go to the proper government board or Parliament and get that right, and furnish the capital itself in the shape of selling stock and bonds in the open market or auction to the highest bidder.

Mr. CAMPBELL. In a somewhat extensive, but a very hurried, investigation that I have been able to make within the past five or six weeks of this very important question I have found this proposition somewhere that the gas company may increase its capital stock in the proportion that it reduces the price of gas.

Mr. KELIHER. That is the law in Massachusetts to-day, is it not?

Mr. CAMPBELL. I think it is.

Mr. BEMIS. In regard to one company in Massachusetts, in Boston.

Mr. CAMPBELL. I think it was in consideration of the Boston law that I found that theory. What do you think of that theory?

Mr. BEMIS. It prevails in a few places in England, from which it was introduced into Massachusetts with respect to that one company, the Boston company. That theory has worked very well in Boston, and under it the price of gas has been voluntarily reduced by the company below the 90 cents at which the ordinance fixed it when it took effect—first to 85, and then in July of last year the company voluntarily reduced it to 80 cents, because, under the sliding scale and the reduction of 5 cents in price below 90 cents, they could increase their dividends from 7 per cent upward. The greatest objection to the law is the fact that you tie this up for a long time to come, but whatever may be the present adjudication as to a proper capitalization you must tie this up, and ought to, for quite a while in order to be a proper protection to the company and encourage it to go on in reductions; but the moment you do that you are assuming to decide to-day for quite a long time to come what your basis shall be for the reduction in price and for increase of capital. There is so great an uncertainty now as to the proper basis of capitalization of such companies, and the public sentiment is so rapidly changing on the subject, that a good many hesitate about introducing this sliding scale very rapidly just now, but are continuing the rather short relations or engagements with companies, not tying themselves to long franchises or long contracts which the sliding scale contemplates, letting the matter drift a little and trying to get every four or five years such reductions as investigations show are deserved and merited, and perhaps in time the sliding scale will be generally introduced.

Mr. CAMPBELL. Do you regard that as scientific?

Mr. BEMIS. I regard the sliding scale as an improvement over most of our efforts, but I do not feel quite ready to tie to it—not just now when public sentiment is so rapidly changing on the subject. I think it is best to leave the matter a little more open for a while yet, and I would rather see the experiment tried in Boston. I am awaiting for that with a good deal of interest, and the service is working well there. I am afraid that that basis, if taken now, would be very unpopular in a community ten or fifteen years hence.

I have spoken of two theories of the disposition of consumers' profits. One theory is to encourage the company to take it and invest it in the plant and never to capitalize it, but to give the consumer the benefit of it, if the courts will allow; and the other theory is to see that they shall turn over to the consumer all the profit in the shape of low prices beyond what is reasonable return on the capital that the stockholder has put in, and do it every year. But this law unfortunately has none of the benefits of either one of these propositions and is worse than either, for this law provides directly that the company shall keep these profits, and, having kept them, shall never return them, but shall capitalize them whenever they please to do so and can show that it has taken the profits.

So that this law directly antagonizes everything that they have attempted to do in Massachusetts, and does not attempt to do what they have tried to do in England, give the benefit to the consumer; but has the disadvantage of both schemes and leads to a tendency to absorb entirely and forever any profits that are made in the gas business. But you may reply, If it is not allowed to do this, why can't the company declare a larger dividend? It has the right to declare, perhaps, as large a dividend as it wants to, in Washington. There are, of course, places where that might not be legal, but I suppose it is here. Therefore if the company should not, as a matter of public policy, be allowed to take the profits from the consumer and put them in the plant, and avoid raising money by direct contribution of stockholder and bondholder, what would prevent its treating the consumer badly by dividing the profit as it accumulates in larger dividends? Simply the company would not dare do it, that is all; and that is one of the bases of the present scheme; it enables the community to be deceived as to the profits of the company.

You have to face here not only what is legal, but what the public opinion will tolerate. Public opinion will not tolerate a 20 per cent dividend in the gas business. If the company can show that for a long period of time it has not made any dividends—of course the company might have existed for many years and not made any money—then if it declares a 20 per cent dividend, which one would say was a reasonable recoupment for not earning anything for a long time, there might not be any objection. But if the company had been earning good dividends, the community would not tolerate an open payment of large dividends; but this law allows the community to be deceived, or go to sleep on that matter. Take, for example, the reports just made to Congress by the Washington Gaslight Company, shown in House Document No. 609. It appears from this document that the company declares that it made a profit last year, which it spent for extensions and construction aside from what it put in the renewal reserve fund; that it earned and spent for extensions and construction $130,602.24, and had a further surplus of $139,290.82, or a total of $269,893.26,

which is over 10 per cent on the $2,600,000 paid-up capital stock. So that the company, in addition to declaring a 10 per cent dividend on that stock, put into the plant the surplus, a little over 10 per cent more, but the community does not realize that fact at all. Or, put it in another way: The company has $2,600,000 of paid-up capital stock, and $2,600,000 of dividend certificates of indebtedness, paying, I believe, 6 per cent. I do not yet see how under the law they ever had a legal right to declare those certificates of indebtedness or to issue them. It seems to me like evasion of the law. It was really a stock dividend of 100 per cent to the stockholders out of earnings that the consumer had furnished, and without going to any court under this law, simply evading the idea of having an investigation, they just simply issued these certificates, as I understand it; I may be wrong on a hasty reading of the evidence, but that is what I infer from the evidence and from what I have seen in Moody's Manual and elsewhere.

Mr. OLCOTT. I do not quite understand one thing you mentioned there. You spoke of the earnings and surplus being $269,893 and the paid-up capital stock as $2,600,000. That did not much more than enable them to pay their 10 per cent dividend on that; it is about $9,000 more. Those are the figures you gave us, are they not?

Mr. BEMIS. I did not state, because I took it for granted that you were familiar with the fact—but I see that I should have stated it—that after they had paid a dividend of $269,000——

Mr. OLCOTT. I only call your attention to this, because I want to have it correct in the hearings.

Mr. BEMIS. They had paid $260,000 in dividends, and $179,948 in interest, the interest consisting chiefly of the 6 per cent on the $2,600,000 of certificates. After having done all of that, they still had 10 per cent interest on the stock; I did not go back to the point as to whether the stock was ever the result of earnings from the consumer or not; but assuming for the moment that the stockholder had furnished all of that, which I remember has been disputed by many, this 6 per cent on the certificates of indebtedness and the 10 per cent that went into the surplus made 16 per cent—plus the 10 per cent actually declared, makes 26 per cent. So that assuming that the $2,600,000 of paid-up capital stock was really paid up by the stockholders, and not by the consumers, then the earnings last year were 26 per cent, according to this report.

I am not asking you to accept any theory of mine, but to take their own returns, given to Congress on February 1, and which I am sure the company will not dispute. Or we may put it in this way: If the company is entitled to $2,600,000 of certificates, then what they put into the surplus is equivalent to a 5 per cent addition to their dividends, making their dividends 15 per cent, and 5 per cent additional to the 6 per cent upon the certificates, or 11 per cent on that. While legally I suppose the company could declare a dividend of any amount—20, 30, or 40 per cent—the people would not long endure that if they knew it. But this law directly does allow it without the people knowing of its being done, which constitutes a very great phase, to my mind, of its viciousness. And that is not all. Not only does this law deceive the public as to the profits, and if taken advantage of by the company in the formal way allows a permanent capitalization, but it can be interpreted by the court or by the referee, who acts under the law, in a way to exert still worse results, and that is very apparent in what is before us in the case of the Georgetown Gaslight Company, and therefore I want to speak a moment upon that.

I have before me the report of the auditor in the Georgetown case. I find that he secured from the company a report of all the money that they had put into the plant since it started. He did not secure from them any statement as to the amount of renewals to take care of depreciation from year to year.

Mr. CAMPBELL. You say that is not shown in the report?

Mr. BEMIS. Not for the entire period; no. There was a little testimony as to the buildings having depreciated 5 or 10 per cent, and a few little things like that, but most of the property had no depreciation charge upon it, and there are no returns as to the amount of renewals put in the plant since it started. Perhaps that would be difficult to obtain, since the company went back to 1853; nevertheless, no effort appears to have been made running back for any length of time to have gotten it. We are left in the dark whether this investment of $353,568.39, which is all the company claims it has ever invested in Georgetown, has had charged off any depreciation or not. It was quite common until late years for companies not to charge off depreciation, but to merely keep up a fair degree of repairs from the earnings and pay out the rest of the profits, and then, after a series of years, issue a new block of stock for further extensions.

Mr. CAMPBELL. What have you found to be the average per cent of depreciation of gas companies?

Mr. BEMIS. It varies very much with the many conditions. You have got to take into account how much they do spend, for repairs and the reserve for depreciation go together. You may spend so much on your plant from year to year in renewals that you have no depreciation at all. That is the common method with our steam railroads now, such as the Lake Shore and the Pennsylvania.

Mr. CAMPBELL. It is claimed by some that railroad property is renewed every ten years.

Mr. BEMIS. The best illustration we have of the extent to which this can be carried is the New York gas case, where the Consolidated Gas Company has kept very accurate returns for twenty years, and it has spent on the average 10.6 cents per thousand feet for repairs and renewals; and the testimony of their own witnesses, engineers and superintendents, shows that the plant at the time of the hearings in 1907 was in better shape in every way than in 1884, when they began their system of bookkeeping on that subject. In other words, the 10.6 cents had much more than kept the plant in good condition. It had improved the plant, very largely improved it. They had taken out small service pipes and put in large ones, and charged it to renewal. They had done very much in their manufacturing plant to improve it and to get a much better plant out of it, so that the question is a difficult one to answer. The amount will vary all the way from 6 or 8 cents a thousand feet for repairs or renewals up to 15 cents.

Mr. KELIHER. What are they selling gas for in New York now?

Mr. BEMIS. One dollar per thousand. The case is before the courts now.

Mr. OLCOTT. The decision of the master was in favor of the company.

Mr. BEMIS. Yes. The decision of the judge indicated that about 85 cents per thousand would be a price that would be a reasonable price, but that 80 cents was not, for reasons that I will come to in a moment.

In most hearings that I have attended gas companies insist on a depreciation charge of more than 2 per cent a year. But I took occasion last night to see what a 2 per cent depreciation charge written off on the declining value of every year since 1853 would amount to, and it would take off one-third of it, leaving the Georgetown property worth only about $225,000. I think that is extreme; I think it is too high. Very likely the plant has been pretty well kept up by renewals and out of earnings, as it should have been, so I only give that as an extreme illustration. But there should have been much more taken off, probably, than there was by the referee, since the company made very little allowance for depreciation in their testimony.

It is rather amusing that in almost every case of litigation that I have ever been in the depreciation has always begun at the time the case came up for hearing; there was never any in the past; but from the time of the hearings it must be allowed for on the price of gas in the future. It is a wonderful situation—never any depreciation in the past, and it has always begun at the time of the hearing.

Mr. CAMPBELL. As a matter of fact, is there much depreciation in the strength and durability of a gas main as the years go by?

Mr. BEMIS. No; there is very little depreciation in gas mains if there is no electrolysis, and there should be very little in Washington because of the conduit system here. The main will practically last for two hundred years. Of course it may become too small in some districts. There is no limit, however, to the durability of either water or gas mains; that is, where there is no salt or ashes to eat into it and where there is no electrolysis.

Mr. CAMPBELL. That is really the heavy expense, is it not, in these plants?

Mr. BEMIS. Yes. Of course there is always a considerable expense for depreciation for the manufacturing plant, which must be kept up-to-date, which is from 6 or 8 cents up to 15 cents, according to the size of the plant. In smaller cities, particularly where the cities are growing rapidly, and where you have a population of twenty-five or thirty thousand, as in the western towns, there you would have to allow a depreciation much greater for displacement by growth than in the larger cities of the East, which are fairly standardized.

Mr. CAMPBELL. What per cent of the cost of a gas plant in a city the size of this would be in the mains?

Mr. BEMIS. It varies a good deal, but I would not be surprised to find half of it. I find this company, after setting aside an amount for repairs, also set aside for renewals, as it should have done, last year—and the total is a little over 8 cents per thousand feet of gas—8.17 cents. This includes what they do not include as depreciation, $7,328 for material destroyed and $4,000 for material charged off. That probably was a reasonable allowance, so far as we know at present. Anyway it is what the company considered was a reasonable allowance and I am not in a position, without further light on the subject, from examination, to say that it is wrong. But considering in a broad way how the law is interpreted, it seems to me that in the Georgetown decision—and that illustrated what will happen in the city of Washington if the law continues—depreciation does not seem to have been charged off as much as I should think it ought to have been. In the next place, the auditor attempted to determine, not what had been invested in the plant out of the earnings of the consumer, but what the plant could be duplicated for. I have not noticed any reference to any illegality in that point of view, but it strikes me that it violates the spirit of the first sentence of the fifth section, "that neither the Washington Gaslight Company nor the Georgetown Gaslight Company shall hereafter issue any greater number of shares of stock than shall be equal to the actual cash value of said plants and necessary cost of the construction of future extensions or future enlargements of plants."

If the company is going to enlarge its plant to-day—if, for example, it discovers that there is an unpaved street about to be paved, and that it has no street main on that street, it would lay its main there probably. That is the way almost all gas mains are laid. Then it could under this law go to the court and say that it is going to cost them so much to put this main down and they want the right to capitalize that cost. The court could say, "Well and good" under this law. Suppose, however, the gas company is shrewd, and says, "No, we will not do that; we will wait; we will put the main down, but we will wait until the Government has come along and paved over the main. Then we will go to the court and say, "If we had come to you two or three years ago we could only have asked for what it cost us, but by waiting three years we are going to ask for 60 or 75 per cent more, because we are now going to ask not only what it cost us, but what it would cost us to construct it now, because the company has put the paving down." It would seem to me that that violates the whole letter and spirit of the act. When this act provided that they can only capitalize the future extensions on the basis of cost, it must have intended to apply it to whatever was put in, but the auditor has gone on and taken an entirely different theory—that it can apply to the past one theory and to the future another theory.

Mr. CAMPBELL. It developed in the trial of the Georgetown case, as shown by the record and the pleadings and briefs, that the court refused to hear any testimony, ex parte or otherwise, or anyone, excepting the gas company. Do you regard that as a fair sort of way at which to arrive at the value of the gas plant?

Mr. BEMIS. I have rarely known that to be pursued. It would not strike anyone as being fair.

Mr. CAMPBELL. Taking the practical side of it—you have been on both sides, in all probability, of gas questions in many States——

Mr. BEMIS. I have been connected with twenty such cases, but I have never seen a case in which both sides have not been heard.

Mr. CAMPBELL. Even experts would differ, would they not?

Mr. BEMIS. Oh, yes.

Mr. CAMPBELL. An auditor making an examination to-day would probably have some of his conclusions or findings disputed by another auditor on the same question to-morrow?

Mr. BEMIS. Yes.

Mr. OLCOTT. It is the general experience that experts never agree anyhow.

Mr. BEMIS. No; I suppose they do not.

Mr. SIMS. Has it been the rule for capital stock to be issued upon the value of the franchises, earnings, and rights where nothing has been paid in as an investment made for those rights or franchises? Is it usual to include that in capitalization?

Mr. BEMIS. I was going to refer to that a little later, but I will refer to it now. That is one of the points in which the auditor has interpreted this law even worse than it reads on its face. He has interpreted this law as allowing a capitalization of the franchise and good will, as he calls it, but the rulings of the Massachusetts and New York commissions and the custom in England have not been that way; they have always been rigidly against that. The only case in which I have known a court to sustain a capitalization of a franchise is the recent New York gas case, which I am pretty familiar with, as I have done a good deal of work on it for the city of New York, and have

carefully read Judge Hough's opinion, which I have here, and which shows very clearly two or three things: First, that he believed it to be absolutely ridiculous to capitalize a franchise, and that he was absolutely opposed to capitalizing franchises; and that the only reason he allowed it in this case was because the law had allowed it back in 1884 when it provided for the consolidation of the manufacturing corporations of New York City, and at a capitalization to include the value of their property and franchises, and because this has never been tested in the courts, and because the stock and bonds had been outstanding for over twenty years—on that basis Judge Hough said he thought that he had better pass it up to the United States Supreme Court for further action. And in a later decision, or a supplemental decision, in respect to further hearings on this very case, when he was asked to again review his position, he states: "For all I can see, the franchise of 1884 might as well have been valued on just the amount of stock issued on the face; it was enough to attempt to capitalize expected profits, but the attempt has now twenty years to justify it." It was because it had had twenty years uninterrupted legal success, and for that reason alone—as I read the original decision—he indorsed this in that particular case.

Mr. OLCOTT. That consolidation took place in 1884 and especially provided that the franchise should be valued?

Mr. BEMIS. Yes. It was contended by the State, even if that were done, the franchise had run out and had no value.

Mr. OLCOTT. Was not the law tested just immediately after 1884? There was certainly a good deal of litigation, according to my recollection, about that gas-consolidation act.

Mr. BEMIS. There is still disagreement among the lawyers——

Mr. OLCOTT. Wasn't it decided by the court of appeals of New York State?

Mr. BEMIS. I heard it discussed among the attorneys as to what the decision settled, but whether it settled that case was still a matter of discussion.

Mr. OLCOTT. I know the State had a vast amount of litigation with the gas company, and I thought they were beaten.

Mr. BEMIS. Now, further on this franchise matter, that is an argument for repealing this law before rights are secured under it. Certainly it is against public policy, it strikes me, to capitalize a gift from the community and make a community pay interest on its own gift. If it gives to the company a fair return on the capital furnished by the company, it seems to me it has gone as far as it should. Then the question comes up of capitalization of good will or established connections with the customer. Those connections with the consumer were either paid for directly by the consumer, who owns part of the service—the service at least from the sidewalk in—or they were charged to construction by the company and allowed in their schedules, or the soliciting of the business was a proper charge to the promotion, and paid for in operating expenses—that is, the canvassing, the advertising, the securing of business. Nevertheless, they have gone ahead here and capitalized those established connections with the consumers. I am trying to find the number of them in this Georgetown case, but they were somewhat over 2,000—I will assume that they were 2,000—and they value the franchise rights and good will at $66,000, or about $30 a connection. In other words, what they have done has been to capitalize the consumer at $30 a head. What that means would be this: I am a consumer in Washington and pay for having the service put in. In the operating expenses I pay for all charges for promotion, having paid for the canvassing which secured me as a consumer, and having paid interest on any construction costs the company has been put to for service connected with my house. I then have to go to work and pay interest on myself for the rest of my life. That is what this means. The consumer shall not only pay the expense of getting himself connected with the gas company, but after the connection is made he shall pay interest on it the rest of his days. That is one of the most ridiculous contentions ever made by a gas company.

Again, in this Georgetown case the auditor has interpreted the law to allow him to increase the value of the land. I question if land usually is worth more for gas-making purposes, because of the growth on the lands around it, than it was when purchased, but you have got to find one horn or the other of the dilemma. If you are going to increase the value of your land with the growth of the value of the land surrounding it, you have got to take the basis on which the value of the land is fixed in the neighborhood, and that is what it would be wanted for for ordinary purposes. Gas land would not be wanted for ordinary purposes, and therefore if you are going to value the land at the increased value on the basis of what the land around is worth, you can only value the manufacturing plant on it at its scrap value. I think it is a great deal fairer to value the apparatus at its cost, or take account of the depreciation, or even the cost of duplication, and to give to the land the value paid for it. To be sure, the company could sell that land if it cared to and move to another location; I think that right would be recognized. But while it is using it for gas-making purposes I do not think it should be too ready to increase the capitalization with the assumed increase of the value of the land.

Mr. OLCOTT. Why should not the gas company have the right to get the unearned increment just as well as the individual?

Mr. BEMIS. It can when it sells it; but I do not think that during its use it is really of any more value for gas-making purposes. I doubt if its value for gas-making purposes has increased, and I think that you can not fix a value for the land excepting as you throw it in the open market and strip it of its improvements.

Mr. OLCOTT. The taxes will have increased?

Mr. BEMIS. But the taxes must have been paid by the consumer.

Mr. OLCOTT. But the tax increase shows that the land has itself increased in value, even if used for gas-making purposes?

Mr. BEMIS. That would seem to indicate it to that extent; that is true.

Now, if you are going to adopt the theory as to the value of the property in case of duplication, you ought to take into account what the prospective purchaser should give who had a franchise and no gas property, and had a right to buy this property or locate anywhere else in the city and duplicate the plant. It is more likely that he would take cheaper land.

But take the question of street mains in this Georgetown case. They have capitalized the street mains, the new paving that has gone over them since they were put down, and there seems to have been no complete investigation as to whether all the street mains were put down before the paving or not, but in most cases they are, and I shall assume for the moment that they were until further evidence is introduced. If they were, then what has happened is this: That $54,000 capitalization has been added by the auditor on account of the paving, for that is what is accepted as the value of the paving, plus 10 per cent, making about $60,000. That, to my mind, is equally absurd. The consumer, as the taxpayer, pays for the paving, and then he has to pay interest on it in the form of a higher price for gas. If the auditor is consistent in that view, then this company would have the right, every time the city of Washington put down some more paving, to charge more for gas, because the company could go to the courts and say: "Here, my property is worth $100,000 more this year than last, because the Government has put paving over my mains; therefore I am not charging enough to pay for the outstanding amount on that cost." Logically that is a direct result of that reasoning, and yet you can see how ridiculous it is when it is analyzed.

Mr. NYE. Was that allowed by the court in the Georgetown case?

Mr. BEMIS. Yes; they added $54,000 for paving without apparently stopping to find out whether the company had paid for the paving or not. In fact, the tendency of the testimony seems to be that probably the company had not put down many mains after the paving was laid, but that the company ought to have the right to capitalize it because it would cost $54,000 for a new company coming in now and laying mains under this pavement.

The working capital, too, was taken by the auditor at $30,000, which does not seem to have been accompanied with sufficient investigation of how much credit the company was enjoying. For example, if the company had two months' credit on coal, oil, and other supplies without interest, then to that extent there should be a deduction made from the working capital. What the company paid no interest on it should have no right to charge the consumer. But there does not seem to have been any recognition of that fact.

Now, I have taken up these matters merely to indicate how many defects there are in the present law, which is bad enough on its face, and it is still capable of still worse interpretation than has been put upon it in this decision. And therefore it strikes me that the first thing necessary is to repeal the law before further valuations are attempted under it. The law may be constitutional—I understand that point is being tested—but it certainly is against public policy, as I look at it.

Now, I want to say a word about the question of the price for gas, assuming for the moment that you have desired to consider that when this other matter is out of the way. Any full consideration of either the price of gas or proper capitalization can only come after a very considerable study, a study by expert engineers, a study by expert accountants. In any case which I have ever been connected with there has been a large amount of time necessary for such investigations. Even the smaller cities of 50,000 population have found it necessary to go into the matter quite exhaustively. The company will do that, and the public must do it in order to present its side of the case, and the court should have all of that information before it. It would certainly be impossible for me to go into a full consideration of the proper price in Washington with the very small amount of available data at present. All I shall attempt to do will be merely to call your attention to two or three things, which I think no one will controvert.

Mr. TAYLOR. Was not the price of gas yesterday found by the House to be worth 75 cents?

Mr. OLCOTT. For the public schools.

Mr. TAYLOR. Well, if it is worth 75 cents to the Government, I think it is worth 75 cents to the individual.

The CHAIRMAN. Allow me to ask you whether, with the experience you have now had with the Washington Gaslight Company, you are able to say what the price of gas should be here?

Mr. BEMIS. I was going to say a few things about that, and I think perhaps it is best to say them in the way I am going to do. I said a moment ago that I have not information enough, and that it is impossible for anyone to have information enough, to settle that question offhand, but what I am going to say is this: That there are a few facts that no one can controvert. The company has made a report, which I have already referred to, for the year 1907, and it is embodied in House Document No. 609, Sixtieth Congress, first session. It is the annual report as of February 1, 1908, signed by John R. McLean, president, and furnishes a list of the stockholders. It is not to be assumed that the company will put its profits too high or its cost of gas too low. The tendency rather, I should think, would be in the opposite direction. The company has stated that after paying all expenses and providing for a depreciation and renewal account, it had left the profit paid as dividends of 10 per cent on its stock, and an average of 5.629 per cent on some improvement bonds, of $598,700. It also paid 6 per cent on $2,600,000 of certificates of indebtedness, which represented apparently, as I have said before, a stock dividend out of the consumer; and in addition to that, as I have already indicated, they earned and put into the plant a surplus of about $270,000. Now, that amounts to 14.57 cents per thousand feet of gas, and the average price, they say, for their gas was a dollar.

Mr. TAYLOR. Is that 14½ cents profit per thousand feet?

Mr. BEMIS. After paying dividends and interest. Their actual cost, they claim, was 62 cents.

Mr. CAMPBELL. For manufacture and distribution both?

Mr. BEMIS. Manufacture, distribution, depreciation, and renewal. They claim that they had to put into the plant after paying interest and dividends 14.57 cents. They could have, according to their own report, furnished gas at about 85 cents, and still have paid interest, dividends, renewal, and depreciation account which they did pay.

Mr. TAYLOR. On their own capital stock?

Mr. BEMIS. Yes. At a price of 85 cents, that would be 10 per cent on the stock, 6 per cent on the certificates, and an average of 5.625 per cent on the bonds.

Mr. TAYLOR. Including fixed charges?

Mr. BEMIS. Everything, including 10 per cent on the stock, 6 per cent on the certificates of indebtedness, and the interest they paid on the bonds.

Mr. CAMPBELL. That includes all fixed charges, rents, salary, and other expenses that would not be included in the manufacture and distribution, and the depreciation?

Mr. BEMIS. Yes.

Mr. OLCOTT. Following out the remarks that you made when you began, you rather approve of their keeping some surplus providing they do not attempt to capitalize the surplus afterwards. Say we have 14.57 cents taken off, and the gas sells for 85 cents, which includes this surplus, I imagine you think that would be a good thing for them to have in case of an emergency when they could not get money.

Mr. BEMIS. I am glad you brought that out. I said the plan in Massachusetts had been along that line for years, but experience had shown that it was unwise. Approaching it from another point of view, the company claims an actual operating cost and expense of renewals to meet depreciation of 62.116 cents, but in that amount there are three items of expense at least which I think would be subject to criticism, to say nothing of what an exhaustive study of their books

and accounts would reveal. These three items are, first, they have a leakage of about 10 per cent, while good companies like Boston, Baltimore, Chicago, and many others have a leakage below 5 per cent; 3 or 4 per cent, I believe. A leakage of 5 per cent would reduce their expense about 2 cents per thousand feet.

Mr. KELIHER. Is that due to lax methods or a poor plant?

Mr. BEMIS. Some fault of the system, or care for it; I would not undertake to say now what. You will find plenty of small companies that have a leakage of 10 or 15 or even a greater percentage, but I speak of the better companies.

Again, they have a legal expense of nearly 2 cents per 1,000 feet, while the average expense per 1,000 feet for legal expenses of all the 60 companies in Massachusetts is less than 1 cent—about three-quarters of a cent. They have probably had an extra expense on account of this litigation, and they have doubtless charged that up to the consumer, and the propriety of that is open to discussion. It certainly is not a normal amount.

Then they have charged in as operating expenses interest on deposits of consumers, which is a capital charge. In other words, they make the consumer in many cases put up a deposit, which is perfectly proper to do, but the interest on it is not an operating cost; it is a capital charge, if the deposit is used as capital; and therefore in speaking of operating cost we ought to exclude any interest charge and put it in the capital account.

Mr. OLCOTT. How much difference does that make?

Mr. BEMIS. The three together make 3.2 cents, and taking that from the 62 cents, about, you have 58.9 cents.

Mr. OLCOTT. I understood you to say 2 cents for the legal cost and 2 cents for the leakage.

Mr. BEMIS. I only took off one of them; I took the average, that is, I took 1 cent out of the two. It is 5 per cent, which would mean only about 2 cents per thousand feet.

Now, that reduces the expense, even by those cursory suggestions, to 58.9 cents. Since that includes repairs and renewals, they can easily be obtained. There has been recently a decision in the little town of Cedar Rapids, Iowa, where Judge Ellison, of the Iowa state court, has lately ordered a reduction to 90 cents, although the operating cost was 68 or 69 cents, more even than this cursory examination indicates in Washington.

Mr. TAYLOR. And then in a town of smaller size it costs more to produce gas than in a larger place?

Mr. BEMIS. Very much more. If Boston can sell gas at a profit at 80 cents, it would certainly appear that Washington, which is nearer the coal, gas, and oil fields, ought to do so.

Mr. KELIHER. From your investigation made here, how do you think the principle of the sliding scale in operation now in Boston would apply to the local conditions here?

Mr. BEMIS. I should not want to make any suggestions of how to apply it without more study. Of course, it could be applied by taking a price and a dividend, and letting the company change the price 5 cents, and then change the dividend 1 per cent after that, and so on, but you would have to be careful as to the amount of stock you allowed them to start with.

Mr. KELIHER. But from what you learned in Boston, it is an unqualified success there?

Mr. BEMIS. It has been a success up there; I do not say unqualified, because there are criticisms of it; but President Richards is a magnificent manager.

Mr. CARY. Have you any statistics concerning the gas company in Milwaukee?

Mr. BEMIS. No; I have never had occasion to investigate it, but I know they are charging in the neighborhood of 80 cents for it, and at Detroit and Grand Rapids about the same.

Mr. CARY. The Milwaukee Gas Company rate is from 60 to 80 cents per thousand, according to the amount used; and not that alone, but they give a certain percentage in wages every six months to employees.

Mr. BEMIS. They do that in Boston; therefore I should say that 85 cents is a maximum charge, and it looks, from all of these considerations, that it should be considerably lower than that, but I do not want to make any definite statement now, because it should be a matter of careful investigation.

The CHAIRMAN. I wish you would explain what causes the difference in cost in the difference in candlepower.

Mr. BEMIS. Candlepower is high here, as it is in Chicago, Philadelphia, and New York, and the difference of five candles will make a difference of about a gallon of oil per thousand feet, and that will cost them from 4 to 5 cents.

Mr. TAYLOR. The candlepower here is about 22?

Mr. BEMIS. The average of the District is about 23. The law requires 22.

Mr. TAYLOR. That is high. It runs as low as 15 in illuminating gas in other places?

Mr. BEMIS. In Boston the average was 18.3 last year, according to the state inspection.

The CHAIRMAN. What is it in Milwaukee?

Mr. BEMIS. From the data I have from the president of the company, I am told that it is about 18, and also that in Detroit and Grand Rapids. In Chicago it is 22, Philadelphia 22. It is 24 in Chicago a mile from the works.

Mr. SMITH. I have the honor to represent in part the city of Detroit, and during nearly all of last winter, after reducing the price of gas to 80 cents, the papers were filled with statements from people to the effect that their gas bills were larger than they were before. Will you please explain what brings that about?

Mr. BEMIS. If there is a proper testing of the gas, it can not occur. What often happens is this: That the people, since the reduction in the price, use a good deal more for fuel purposes, cooking, and so forth.

Mr. TAYLOR. Yes; it is just like in the cheapening of railroad and street-car fares; they ride more and use more money.

Mr. BEMIS. What really happens, they use more gas and less coal.

The CHAIRMAN. What course do you think we ought to pursue in order to get at a fair price for gas in the city of Washington? I wish you would indicate just what you think we ought to do.

Mr. BEMIS. I think you ought to repeal this law, and have a thorough investigation of the books of the company running back several years, going fully to every account as to what it costs them, find out just how much it has earned out of their dollar and put in the plant every year, and just what it has cost them before they did that. Also get some idea of the average expense as compared with last year, and whether last year was normal or abnormal.

The CHAIRMAN. You do not think we can get at the price to fix by spending an hour in this way, with all due respect to you?

Mr. BEMIS. No; and I do not come——

Mr. NYE. Your conclusion ought to be worth something to us, however.

Mr. BEMIS. Of course you can do this: You can pass an act making a reduction, assuming that the courts will not hold it to be confiscatory, and that the courts will declare it confiscatory if it does reduce the price too low. You can pass an arbitrary act saying that you think that the circumstances justify 80-cent gas, or whatever you fix, and leave it to the courts to go into the investigation. Undoubtedly some time or other there will have to be an investigation. Make it 75 cents, if you wish; but I think it would be better if you can have this investigation, and if you can do that I think you can pass an act making a conservative reduction, but not going to the extreme limits, and then leave it to the courts for further investigation.

Mr. CARY. But you think 85 cents would be the maximum?

Mr. BEMIS. I do not see how you can possibly make it higher than that, in view of this company's report.

Mr. MURPHY. The courts would probably investigate anyway.

Mr. BEMIS. It would depend a good deal upon what the evidence is. It is pretty hard for the company to go back on its books in the courts.

Mr. TAYLOR. Can you give the name of some city located very much as Washington is, and about the same size, containing, say, 325,000 people or about that, and located as to fuel and supplies about the same, so as to have about the same cost of production?

Mr. BEMIS. The only city I think of at the moment is Baltimore, but Baltimore is not situated quite the same.

Mr. TAYLOR. What is the rate there?

Mr. BEMIS. It varies from 85 cents to a dollar, I think. I have not the lowest figures. It may be lower now, but that was my information a few months ago. But you can not very well be guided by Baltimore, for the reason that there has been no great effort made to get a low price there, and that is true of four-fifths of the cities of the country. The people have not paid much attention to it.

Mr. NYE. Are you familiar with the condition in Minneapolis?

Mr. BEMIS. I once lived there, but it was many years ago.

Mr. NYE. We approximately have 300,000 people.

Mr. BEMIS. Yes. The price of gas is 90 cents there now, is it not?

Mr. NYE. Yes; they have been paying a dollar up to recently, and have been squabbling over it for a year, insisting upon a reduction to 80 cents. I do not know whether they have come to a conclusion upon it or not.

The CHAIRMAN. If a dollar is a fair price for 23-candlepower gas, in the same proportion what would 18-candlepower gas be worth?

Mr. BEMIS. About 5 cents less, I should think.

Mr. OLCOTT. Did you come here at the request of a citizen of Washington?

Mr. BEMIS. Yes; Mr. Welliver, of the Washington Times.

Mr. SIMS. Considering the gas that is made here, 23-candlepower, and taking into consideration such facts as you have been able to gather from your limited investigation, what do you think the maximum reasonable price for gas to private individuals in this city should be?

Mr. BEMIS. It should run somewhere between 75 and 85 cents. It might be as low as 75 cents, and it might be as high as 85 cents. But I do not like to take a very decided stand without having an opportunity to go into it further.

Mr. SIMS. It would be more of an estimate than a scientific conclusion?

Mr. BEMIS. Yes.

Mr. CARY. Would 80 cents be a fair price?

Mr. BEMIS. The more I look into this the more I think the price can be somewhat lower to the city than to a private consumer, although the difference in cost would not be large, but may be from 2 to 5 cents.

The CHAIRMAN. Of course you do not know what the present physical valuation of either the Washington Gaslight or the Georgetown Gaslight Company is, do you?

Mr. BEMIS. No.

The CHAIRMAN. Would the price that the stock has been costing the stockholders for the past few years make any difference as to the price of gas?

Mr. BEMIS. I do not think it ought to.

The CHAIRMAN. There is a gentleman here, a citizen of Washington, who would like to ask you a question.

Mr. TUCKER. Suppose we took out of those items of cost the renewal expense and add that to their capital, how much would that reduce the 85 cents, on their own report?

Mr. BEMIS. As to the the renewal account, it was about 3 cents, so if I took out that it would be about 82 cents.

COMMITTEE ON THE DISTRICT OF COLUMBIA,
Wednesday, April 15, 1908.

Committee called to order at 10.20 a. m., Hon. SAMUEL W. SMITH in the chair.

COST OF GAS.

Statement of Mr. Alexander C. Humphreys, residing in Morristown, N. J., doing business in New York, and president of the Stevens Institute of Technology, Hoboken, N. J.

The CHAIRMAN. You may go ahead in your own way, Mr. Humphreys, but I think it would be well for you to make a statement showing your experience in this subject.

Mr. HUMPHREYS. I have been connected with the gas business since the year 1871, and from the year 1872 have continuously been in charge of one or more gas companies, running all the way from one company up to as many as fifty at one time. I graduated from the Stevens Institute with the degree of mechanical engineer in 1881. Immediately after that I became chief engineer of the Pintsch Lighting Company, which is the company lighting cars, buoys, light-houses, and so forth, with compressed-oil gas.

In the year 1885 I became superintendent of construction of the United Gas Improvement Company, of Philadelphia. Three months later I was made general superintendent and chief engineer, and shortly after put in charge of all their operating concerns. When I left them at the close of 1894, we were operating something over 50 different companies, I being responsible for the commercial operations, engineering, sales of apparatus, and so forth. In the year 1892 I started the firm of Humphreys & Glasgow, of London, which firm has built probably 75 per cent of all the water-gas plants built in the world outside of the United States. In the year 1894 I started the firm of Humphreys & Glasgow, of New York, which has since then done a consulting engineering business in gas, and largely has been concerned in making appraisals and directing financial people as to investments in that line. In the year 1902 I was made president of my alma mater, the Steven's Institute of Technology, and now conduct

the affairs of that institute while conducting my professional business. I happen at the present time to be president of the American Gas Institute, which is a consolidation of the American Gaslight Association, the Western Gaslight Association, and the Ohio Gas Association. I am past president of the American Gaslight Association. I belong to most of the engineering societies of America; I am a member of the council of the American Association of Mechanical Engineers and a member of the British Institute of Civil Engineers, and so forth.

If I might be permitted, as I am deeply interested in the subject, and I think it may be pertinent, I would like to refer to an article that I saw in the Washington Times last night, which speaks of the doctoring of the books and the papers of the New York Consolidated Gas Company, and as to their having been proven to be in error. If that be so, it is absolutely opposed to my understanding of that matter, because I was in that case, and am still in it, was in it for a year and a half, and I went into the books in great detail and never found, in checking up with the chief accountant, Mr. Carter, who is now vice-president, any more than the ordinary errors one would expect to find. On the contrary, I was very much astonished to find how very accurately they brought their matters before me for me to digest before I went on the stand as a witness. I will say further that I have not found anything in my analysis of the accounts of the Washington Gas Company to indicate that there is anything wrong with their accounts.

Mr. SIMS. To what do you refer—to their reports issued to Congress from year to year?

Mr. HUMPHREYS. Yes; or to matters brought to my attention alone. I will say that I have not had an opportunity to go into this thing exhaustively, as I was called suddenly, but I have been more or less familiar with Washington gas affairs for a number of years. I made an appraisement of the plant, I think, in 1898, and another one some few years later, and have been called in from time to time, so that in a general way I am familiar with the Washington plant and business, but I do not pretend to be familiar with all the business details connected with it by any means.

The CHAIRMAN. I think that editorial in the Washington Times to which you referred should be introduced in the record.

Following is the editorial referred to:

SOME "COST FIGURES" ON GAS.

[Washington Times, April 14, 1908.]

A fine mess has been stirred up in New York, as a result of the charge that the Consolidated Gas Company submitted false records to the court in the recent investigation to determine whether gas could be sold for 80 cents per 1,000 feet.

Legislation had reduced the price from $1 to 80 cents. The gas company enjoined the rate. The court named a master to hear evidence. The master sent for books, papers, and witnesses of the gas company. The cost of making and distributing gas was investigated in detail. The court decided that 80 cents was too low, but found that about 85 cents would be fair.

Now, information has reached the authorities in New York that the Consolidated Gas Company made up misleading and untrue statements of cost; had sheets inserted into the ledgers from which employees read; suppressed the carefully prepared and accurate "cost sheets" kept in the offices, and forced employees to swear to the accuracy of all the mass of doctored testimony brought forward.

The experts on behalf of the State found that gas ought to cost 54 cents. The books of the company made it 74.

The charge is now made that the State's experts were correct to within a cent or two; that the doctored ledgers and lying affidavits served to add 20 cents to apparent cost; and that, instead of 85 cents, something like 65 cents would be the fair and reasonable price of gas.

This, be it understood, for one of the most outrageously overcapitalized concerns in the country.

Attorney-General Jackson is going after the Consolidated, and will get to the bottom of these charges.

If he proves them correct, he will deprive the Washington gas monopoly of one of its pet arguments against reducing the price of gas here.

The fact that the courts held 80 cents unreasonably low in New York has been a dainty and delicious morsel to roll under the tongue of every special pleader for the gas monopoly. It was made to answer every argument.

"The charge that the New York price was swollen 20 cents per 1,000 by perjury and falsification of course will not get much attention—at the hands of the gas-monopoly lawyers.

"But it illustrates handsomely how these things are done. Professor Bemis showed from the gas monopoly's own report that it can sell gas in Washington at 82 cents and make a 10 per cent dividend. That, of course, is an excessive dividend. Grant a 6 per cent dividend—that is what the court was willing to do in the New York case, which the gas monopoly has loved to quote—and 80-cent gas would be highly profitable here.

"Incidentally, it may be observed that the annual report of the Washington Gas Company needs attention, and a good deal of it, before it will be entitled to any high rating for honesty and candor.

"Repeal the gas-inflation act.

"Pass a 75-cent gas law.

"And then let the gas monopoly enjoin the new price and have a judicial determination as to what is reasonable.

"That is a fair course to all concerned."

Mr. HUMPHREYS. I had drawn to my attention last night some sort of a communication, as I understand it, made by some people in Washington, giving the population of different cities and the prices charged for gas. I started in to check up every one of them, from Brown's Gas Directory, which is evidently the source from which they were obtained, as I notice that the populations are sometimes generally a little less than I found them to be in 1907 in Brown's Directory, and so I think that they have probably used that directory for the year before. I will not attempt to read those that I have checked up, but I will show you enough to demonstrate that the schedule as prepared is absolutely reprehensible and unreliable.

The CHAIRMAN. Please state what schedule you are referring to.

Mr. HUMPHREYS. It is a schedule that has been brought into this case, so I was told last night, in connection with some computation made. For instance, it starts off this way: "On the question whether gas ought to be sold in Washington for less than a dollar, the following list of cities is given in which it is sold at from 30 cents upward; in which, in all cases, artificial gas only is refered to; in none of which is the price so high as $1, and in which few have coal as cheap as Washington." That is all I know about it.

Mr. SIMS. Where does that come from?

Mr. HUMPHREYS. From some citizens' committee, I understood.

Mr. SIMS. Does it not show what it is?

Mr. HUMPHREYS. No; because I only picked up the one sheet that was given to me.

The CHAIRMAN. Just one moment; I want to get the straight of that, so that we will know what we are doing.

Mr. SIMS. Yes; that would be well, because I thought that Mr. Humphreys referred to some member of the committee.

Mr. HUMPHREYS. No; some citizens' committee.

The CHAIRMAN. I did not know but that it was the list that was published in one of the evening papers some time ago.

Mr. SIMS. I think it is.

Mr. CAMPBELL. I do not find such a resolution among the papers in the case here.

Mr. HUMPHREYS. I am sorry that in my haste I did not learn its origin.

The CHAIRMAN. For one, and as a member of the committee, I am anxious to hear Mr. Humphreys's views about that, because there has been published in the papers at different times a list of the different cities of the Union, with the respective prices of gas, and I would like to hear what Mr. Humphreys has to say about that by way of comparison.

Mr. CARY. Have you read the list?

Mr. HUMPHREYS. I have started it, and I can introduce a few words upon it later.

Mr. SIMS. I think it will be well for you to go on and give your testimony in your own way. We simply want to find out what instrument it was you referred to.

Mr. HUMPHREYS. This list here before me gives the price of gas in the city of Oakland, Cal., as 90 cents, when, in fact, the net price for light is $1.15 and for fuel 90 cents, and the average last year was $1.03¾. Bridgeport, Conn., is stated as 90 cents, whereas the price is from $1.15 to 90 cents, and the average $1.02½. I particularly call attention to the fact that in the statement preceding the table of prices, as already quoted, it says that the following list of cities is given in which gas is sold from 30 cents upward, but in all of which cases it is artificial gas. Akron, Ohio, is then given as furnishing artificial gas at 30 cents, whereas the statement of the company, as it appears here in Brown's Gas Directory, directly states that the artificial gas works have been closed, and they are now selling natural gas.

Mr. MCGAVIN. In regard to these places that you have mentioned, and the discrepancies between the statements made there and what you claim to be the actual price of gas, do you know whether or not there is a minimum price they can charge in those places?

Mr. HUMPHREYS. Yes.

Mr. MCGAVIN. What is the minimum charge? I think you stated that it was 90 cents at Bridgeport, Conn.

Mr. HUMPHREYS. Yes. What they have done is this: This list has been made from a statement showing a range of prices running from a higher price for gas used for light to a lower price for gas used as fuel, and the lowest price has been quoted, with no mention of the higher price. Brown's Gas Directory gives a price net for light and another price net for fuel, and also gives the per cent of the gas consumed for fuel—and with these data you can make up an average, and while it might not be correct to a fraction of a cent, it will be practically correct. This is the way I have prepared my figures for the comparisons, whereas in making up this table they have taken the minimum price, which does not take note of higher prices charged, and hence is not the average price. The prices used in the table in most cases only cover the large wholesaling of gas. Not to weary you with references to all the cities named let me speak of a most flagrant case. I speak of Superior, Wis., where the table gives the price as 75 cents, whereas the price is for light $1.60 gross and $1.40 net; and for fuel $1.20 gross, $1 net. For power it is 95 cents gross, 75 cents net; and the proportion of fuel and power is 35 per cent. The only thing that I haven't got to figure on is the division between the amount used for power and the amount used for fuel, but I assume that there will be at least 20 per cent used for fuel and not more than 15 per cent for power, and if I had all the data, I should not expect to find that more than 5 per cent was sold for power. I find that this is a remarkable case, that while it is stated in this table that the price is 75 cents, if we omit from consideration the gas for fuel and power, and simply take the amount received for light alone, and distribute that all over the gas sold, that alone will give an average of 91 cents per thousand instead of 75 cents. I wish this to be understood, so I repeat: If I eliminate all the fuel and the power gas, and take the receipts from the light gas alone, the illuminating gas, and distribute that over all the gas that is sold, it will still give an average price of 91 cents, and this in spite of the fact that the price is given as 75 cents. But figuring in the fuel gas and the power gas, according to the percentages named, I find that the average price is $1.22½ instead of 75 cents.

Mr. CARY. Will you now please take up some first-class city? These are second and third class cities, as I understand it; but take up a city of the size of Washington, and let us hear what the price of gas is in those cases.

The CHAIRMAN. Let me suggest that you take Detroit.

Mr. HUMPHREYS. Very well; I think that happens to be one that is mentioned here. Detroit is named here as 80 cents. The fact is that Detroit has a sliding scale, according to how much you use, or the purpose for which it is used, rather, and the price is from 90 cents to 60 cents. I figure that the average will be about 85 cents instead of 80 cents.

Mr. CARY. Have you Milwaukee there also?

Mr. HUMPHREYS. Milwaukee is down here at 60 cents. As I figure it out, it will be 85 cents on the average; that is, light, gross, $1.20 to $1 net. Fuel, gross, $1 to 80 cents.

Mr. CARY. But that is wrong. It is from 90 cents, and 10 per cent off, and from 80 cents to 60 cents.

Mr. HUMPHREYS. Yes; that is it. Fuel, gross, $1; net, 80 to 60 cents. The proportion of fuel is 54 per cent, and that would make it average about 85 cents. You have got to take any proportion at the average prices in order to arrive at the average price. It is from 80 to 60 cents for fuel gas.

Mr. CARY. That is not as shown in their reports, is it? I live there and I pay my bills there. Here are the figures on the back of the bill. Some two or three years ago they had a separate price——

Mr. HUMPHREYS. This is their own report for 1907.

Mr. CARY. They used to have two meters, one for fuel and one for illumination, but now it is all registered by one meter, and this is what is charged.

Mr. HUMPHREYS. It is 90 cents gross, with 10 per cent discount, 80 cents net for the first 10,000, and the next 10,000 80 cents, 70 cents—if that is it, then they have gone back to the one-meter scheme, and

of course in that case I would be in error on that. I take the same source of information, however, that these people have taken.

Mr. CARY. That is in case they do not pay their bills inside of ten days?

Mr. HUMPHREYS. Of course. In one company that I am connected with—the Buffalo Gas Company, of which I am president—the unaccepted discounts sometimes amount to quite a considerable sum.

The CHAIRMAN. I want to ask you a question which I asked of Mr. Bemis, and it is this: As is commonly known, Detroit is selling gas at 80 cents, but the newspapers of Detroit last summer were constantly giving complaints of people to the effect that while gas was said to have been reduced in cost, yet their gas bills were higher than before. They said that they thought that was brought about in some way by the pressure. I wish you would explain that, for I do not understand it.

Mr. HUMPHREYS. In both Detroit and Milwaukee they have the advantage of using gas produced by a by-product from coke ovens, operated by an independent company, where the principal purpose is to make coke as the product of the business, and sell the gas for what they can get for it. Of course they get the best price they can. It is a scheme outside of the gas company, but they have got to get rid of the gas at a fair price in order to make the coke-oven business pay.

Mr. CARY. Now, I wish you would put that right. It is not true that the gas is the second consideration. You are referring to the Semet-Solvey Coke Company, but that is a different proposition from the Milwaukee Gas Company.

Mr. HUMPHREYS. Certainly it is.

Mr. CARY. The Semet-Solvey Coke Company have had to get rid of their gas in some way, and they forced the Milwaukee Gas Company to buy it, but the Milwaukee Gas Company first started out in the fifties to manufacture gas, and my grandfather was one of their first foremen. At that time they gave the coke away, but finally a price of 6 cents a bushel was paid, then it went up and up, and now they get $4 or $5 a ton. But I want to say that the gas is a first consideration.

Mr. HUMPHREYS. But there is no difference between us. The Coke Oven Company sells its gas wholesale to the gas company, and the gas company thus has the advantage of buying cheaper gas. The Semet-Solvey Coke Company is a coke-producing company, so far as their plant is concerned, and it is a business with which I am somewhat familiar. I was for a number of years vice-president of the United Coke and Gas Company, which has operated coke-oven plants and has built a number of these plants in the United States, including the one in Boston.

Mr. CARY. Now please excuse me for interrupting you again, but I want to say that the Semet-Solvey Coke Company started about three years ago, and after a year or so, there being no way to take care of the gas, they came to the council with a proposition for a franchise, and we all knew that it was nothing but a subterfuge to scare the gas company into taking this gas off its hands, and it turned out that way, and I helped to bring it about, too. Of course I thought that that would tend to cheapen the gas.

Mr. CAMPBELL. Have they reduced the price of gas since they have been able to get it from the coke company?

Mr. CARY. No; it is just the same.

Mr. SIMS. What do they give the coke company for their gas?

Mr. CARY. I could not say, but it is very little.

Mr. MCGAVIN. But they have done away with the two-meter system since then?

Mr. CARY. No, that was done away with before—no, I would not be sure about that; I would have to look that up and see.

Mr. HUMPHREYS. I think it was after that. I want to say that there is no difficulty between the gentleman and myself. My point is that there is a separate company making coke, and they can afford to sell gas to the local gas company at a lower rate than they could make it themselves, which enables them to sell it for less to the people.

Mr. SIMS. What rate do they get?

Mr. HUMPHREYS. I have forgotten the rate.

Mr. SIMS. If the price of gas has not been reduced since this was done, then what effect did it have?

Mr. HUMPHREYS. It was reduced, I am quite sure. This gentleman, Mr. Cary, has shown that there has been a reduction between 1907 and the time when this bill was made out. Their own report shows one thing, while their bill states another thing. I am inclined to think that in going back to the one-meter system the price was reduced.

Mr. SIMS. Relatively, how much gas does the coke company furnish, as compared with the total volume sold?

Mr. HUMPHREYS. That I do not recollect. It is a very large amount of gas. It is the same in Boston, where the coke-oven gas is made by the New England Company, and that is a very large proportion of the gas made; and there they have the advantage of a special contract with the Dominion Coal Company, which was made while the two companies were in accord in management. This enables the Boston company to give a price which no other company would attempt to give.

Mr. SIMS. I hope you will get down to the city of Washington in the course of the hearing; that is what we are considering.

Mr. HUMPHREYS. Now, Mr. Chairman, you asked me as to the city of Detroit; why, if the price is reduced, the bills for gas remain the same. I think that is one of the places referred to by Mr. Bemis—one of the chief places—and I would agree with him on that, that it is due to a large extent to the fact that when people get things cheaper they use more of it. They are not as careful about their bills, and I will also say that the candlepower is very low. It is only 17.

The CHAIRMAN. Now, please explain about that question of pressure. That is what I do not understand. I am told by some that they have a means of manipulating the pressure in some way so as to increase the amount of gas consumed, and I would like to know about that.

Mr. HUMPHREYS. That is a very interesting question, and it has been brought up a great many times in connection with this discussion in many large cities in the United States, but there is a misconception in regard to the whole question. So far as it actually increases the amount of gas delivered through the meter by reason of the increased pressure, which of course means an increased compression for each volume of gas going through the meter, you would have a little more gas under the higher pressure than under the lower pressure. If I compress the gas to two atmospheres above the absolute zero, I would be delivering through the meter twice what I would deliver at the atmospheric pressure of about 15 pounds to a square inch—that is, I would compress twice the amount of gas into a given space. They would probably answer that by saying that that is not the point we make. The point is, by increasing the pressure the gas is forced through the burner at too rapid a rate to give a satisfactory light, which to a certain extent is true. If you burn gas under excessive pressure, then you get a poor flame, and in that way you get less light, but that is in the hands of the consumer, and he can turn it down himself. But if there is a constantly excessive pressure due to the fact that a house is on a hill, that can be regulated once for all at the meter cock so far as the general regulation is concerned. For instance, all who use the Welsbach burner know that you can not get a proper result by simply turning the cock and lighting the burner. It has to be regulated, and that is done at the burner itself. I do not believe that that is any real cause for complaint excepting where there is a distinctly excessive pressure at a certain point due to the fact that they can not force the gas through the weak spots of a city without putting excessive pressure on the points which have large enough mains. In the case that I have cited, the consumer on the hill would get too high a pressure, but even then it could be regulated by the two cocks, first at the meter, and then at the burner itself; and that is being continually done. But here is where the trouble comes in: If you have a pressure that varies between day and night, from an excessive pressure to a pressure that is too low, then you will be led, by necessity, to regulate it from time to time during the evening, which would be very annoying, and I know for one that I should kick. But that is a rare case.

The CHAIRMAN. If gas can be sold in Detroit for 80 cents, and Detroit has about the same population as Washington, why can it not be sold in Washington for 80 cents? That is what we would like to know, and that is what we would like to have you explain.

Mr. HUMPHREYS. Now, I can not tell you in figures, but I can tell you in a general way. Of course the fact that you can sell gas in a certain place for a certain figure is not a good reason why you should sell gas in another place for the same figure. But if I had known just exactly what questions I would have to answer, I should have brought more figures with me. Coal is dearer here than in Detroit. It is a question of relative price all the way through, and a great many things enter into the question of cost. Now, for instance, you have here some of the conditions which are so onerous in New York—expensive street pavements, regulations as to quality, carrying excessive penalties, and the like. A large amount is paid out for renewals of expensive pavements. In some cities we do not have as much of that, if at all. In some cities the renewal of pavements practically amounts to but little, because they use very little expensive pavements, such as asphalt, but use block pavement, which can be more easily taken up. Here I suppose the pavement renewals would amount to $12,000 or $15,000 a year. All those things count up; in other words, you can not take two places and put them side by side, and because the population of one is about the same as the other make a comparison and assume the same price should be charged in both.

Mr. MCGAVIN. But if you assume that the cost of production is about the same—as to Detroit, I think you are mistaken about the coal; I think it is dearer there than it is here, and I think you will also find that labor is dearer in Detroit than in Washington.

Mr. HUMPHREYS. I feel sure I am correct, and if the committee will allow me I will submit a memorandum on that.

Mr. OLCOTT. Yes; we want to know about that question of coal and labor.

The CHAIRMAN. I do not pretend to know anything about gas; I am seeking light, and that is the reason why I am asking these questions.

Mr. CAMPBELL. Would it be too much trouble to have you state, in the memorandum, the relative cost per thousand feet for Milwaukee, Detroit, and Washington or at any other cities that are similar in size and location?

Mr. HUMPHREYS. Of course Cleveland and Cincinnati pay a much lower price for coal.

Mr. CAMPBELL. And also the relative consumption in these cities per inhabitant.

Mr. SIMS. Is it not easy enough to take the coal cost in any one of these cities per thousand feet and the coal cost in Washington per thousand feet and make a comparison on that basis?

Mr. HUMPHREYS. It is easy enough as far as that one item is concerned if I can get the figures. I do not know, but I think they will give me the figures.

Mr. CAMPBELL. Do they make water gas here?

Mr. HUMPHREYS. Oh, yes; they make both here. That is a very complicated question, when you bring the two things in.

Mr. CAMPBELL. In connection with that question, please give the cost of distribution in the several cities and the cost of fixed charges per thousand.

Mr. HUMPHREYS. Of course you are asking me for a good deal, and I will have to get some of this information.

Mr. CAMPBELL. But it goes right to the meat of this matter.

Mr. HUMPHREYS. As to a good many of these things, I can answer right from my office, but I would have to get permission. I would have to make some examination of the works, and of course I could not use that information without the company's consent. But one point in that connection might be emphasized, and that is that people are apt to think that when they have made a comparison of the cost of manufacturing gas they have virtually covered the cost, but the fact is that there are other items of cost that vary greatly throughout the United States; for instance, we generally say that it costs more to make and distribute gas in the smaller places than in the larger places, but I know a number of small places that can distribute gas at considerably less than New York City can, on account of the conditions; and those things have to be brought into account.

The CHAIRMAN. Should not gas be sold cheaper in New York City than in Washington, considering the population and everything?

Mr. HUMPHREYS. No; I think not. There are some things in favor of New York and some things in favor of Washington. Washington has a large sale per capita, but New York has still larger. New York has a large sale per mile of main and very condensed districts. But, on the other hand, they have very heavy expenses on the streets. I have known them there to make a little change that would cost, under ordinary circumstances, a few dollars, but they had to pay out thousands of dollars to get ready to do it on account of the obstructions in the streets. And all that has to be charged up to operating expenses, to renewals or repairs. So it is an extremely difficult matter to analyze fairly the relative costs, and, consequently, what should be the relative prices in the different cities.

The CHAIRMAN. When you began your statement you referred to an editorial in the Washington Times of last evening and said that in your judgment the statements in that editorial were not correct. Do I understand you to say that there was not any fraud practiced in New York, as that article sets forth?

Mr. HUMPHREYS. Yes, as I said, I was in it, and so far as I know it is an absolutely false statement.

Mr. CAMPBELL. Are you familiar with the books of the New York Consolidated Gas Company?

Mr. HUMPHREYS. To this extent, that I did not accept any of their statements on which I was to testify, but I checked up the books as they were offered to me, the accounts, going into the books on the different cases and checking them up to see if I could make the statements tally.

Mr. CAMPBELL. That is, you checked up the accuracy of the statements in the books before you went on the stand to testify?

Mr. HUMPHREYS. Do not understand me as saying that I checked up every voucher, but I took different items and checked them up, and spent probably two months at it in the endeavor to see that the statements would tally; and I will say that the errors were extremely few, so much so as to astonish me; and the man in charge, Mr. Carter, is one of the fairest accountants I have ever met. I do not think you could get him to tamper with the books in the smallest details.

Mr. MCGAVIN. But it might be that there were conditions and things which they would not disclose to you, or which they would not want to disclose to the public.

Mr. HUMPHREYS. I would not go into a case if I found anything of that kind had happened.

Mr. MCGAVIN. Of course I am not reflecting upon you, but I mean to say that there might have been a good deal they would not disclose to you as an expert, and perhaps which might have been material to that case.

The CHAIRMAN. Did you have free access to the books in that case?

Mr. HUMPHREYS. Yes; anything I asked for, and understand that that was a case where, if I failed to check up according to the statements submitted, I would have to work perhaps two days before I could get an agreement, and why? Because the commission was demanding a classification that did not agree with their books, and therefore it was necessary to reclassify the accounts to meet the wishes of the commission. In doing that they naturally would make some mistakes, and in that way we got down to what the books showed. They had men working on the reclassification of the accounts of the books, so as to get the statements in the way the commission wanted them. The information was called for one way one day, and a different way another day. The result of the whole thing was that the unreasonable demands broke down a number of the company's men and one man had to go to a sanitarium on account of it. But when I finally got down to a complete analysis, and ran out these apparent errors to the end, I found that the statements checked with the books; and in my testimony, where they tried to show that there were items of disagreement, I accounted for every one of them that they put up to me.

Mr. KELIHER. Have you made any study of the gas situation in Boston?

Mr. HUMPHREYS. Yes; but not recently.

Mr. KELIHER. You know that we are getting gas there for 80 cents per thousand?

Mr. HUMPHREYS. Yes; you are getting gas for 80 cents, a large part of which is coke-oven gas bought from a company under a special contract, to which I referred, and that company has a special contract for coal; and on top of that the gas is of a much lower candlepower than is sold here—about 5 candlepower less.

Mr. KELIHER. It seems to be giving satisfaction both as to the price and the quality.

Mr. HUMPHREYS. Yes.

Mr. SIMS. What is the difference in cost per thousand feet due to the difference in candlepower?

Mr. HUMPHREYS. Somewhere around 6 cents, I should say.

Mr. KELIHER. What do you think of the sliding-scale system that they have in use there; what is your opinion of the principle?

Mr. HUMPHREYS. I think the principle in some ways is a pretty good one, but it will have to be introduced with great care. I doubt whether it is altogether satisfactory in Boston. I think if they are going to introduce the system here they ought to follow more largely the England idea, which is not to start off with the lowest possible price as a standard price. Some of the strongest men connected with the business in England—I think of one particular man with whom I have been associated for many years, an engineer and a barrister, who is a director in some eight companies, and who believes that it is not wise to adopt the sliding-scale principle, because in the effort to increase the dividends they usually skin the property and do not keep up the repairs. That has been shown, he claims, by an analysis of the working of the system in certain companies. But I simply mention that as one of the objections, and I should want to take up each case and examine it by itself in order to come to a final decision.

Mr. KELIHER. You do not mean to say that they have put the lowest possible price on in Boston for the standard?

Mr. HUMPHREYS. I say that they have gotten close to the lowest possible price and have left no margin. And I say this, that if Boston has bad luck they will be in trouble, because they have no margin for contingencies.

Mr. KELIHER. President Richards, of the Boston Consolidated Gas Company, is rated as one of the cleverest men in the gas business in this country, is he not?

Mr. HUMPHREYS. Mr. Richards is an extremely clever business man, and is credited with being such, but I do not think he would claim to be an expert gas engineer. He is simply the gaslight company's business manager, and has had a wide experience in street-railway management and other public-utility concerns. He is a man that I have the greatest respect for, but I do not think Mr. Richards himself would claim to be a gas expert.

Mr. KELIHER. Have you heard that there is any marked deterioration in the equipment at Boston?

Mr. HUMPHREYS. No; I should not in any case expect to find that at once.

Mr. KELIHER. On the contrary, I have heard that the company is maintaining a very high standard of equipment, management, and everything else. I am surprised to hear you say that owing to the adoption of that principle the management of the company is suffering——

Mr. HUMPHREYS. Oh, I have not said that, if you will excuse me; and that is the trouble in a hearing of this kind. I have said that that was one of the dangers recognized by Englishmen, but I certainly would not want it understood that I have made any such charge as that against the Boston company.

Mr. KELIHER. Not to your knowledge?

Mr. HUMPHREYS. No. In my opinion, at the price they are now running, they are pursuing an unsafe course, and not providing for the contingencies that are liable to arise; for instance, the contingency with regard to electrolysis. We to-day do not know what electrolysis is going to do with our mains. In some cities it has occasioned great losses, and I myself, with a wide experience in that line, confess that I can not size the situation up.

Mr. KELIHER. Is that danger increased by lowering the price of gas?

Mr. HUMPHREYS. No; but the danger of ultimate loss to the company is increased; for instance, if they have not provided against this possible trouble with electrolysis, they will have heavy losses coming upon them not provided for in their ordinary depreciation charges.

Mr. KELIHER. Good judgment and good management should protect them from those losses.

Mr. MCGAVIN. Has there been anything found that will protect these mains from electrolysis?

Mr. HUMPHREYS. You can have bad practice and comparatively good practice, but there has been nothing yet found that has been a complete protection against electrolysis.

The CHAIRMAN. Is there, in your judgment, a need for 23-candlepower gas in Washington?

Mr. HUMPHREYS. No, sir.

The CHAIRMAN. I wish you would devote a moment or two of your time to that. I have heard about a candlepower gas as low as 11 in some cities, and I think the average is 16 or 17, so I was wondering why 23-candlepower gas was necessary in Washington.

Mr. HUMPHREYS. I do not recall any gas in America as low as 11 or 12 candlepower, unless it is natural gas. Of course that will go lower than that. But the necessity for high candlepower gas does not exist to the same extent to-day that it did, say, eight years ago, when the Welsbach and similar burners—that is, the incandescent mantle burners—were not used to such an extent. The perfection with which we are now able to use the mantle burners with low candlepower gas has greatly reduced the necessity for high candlepower gas; in other words, what we want in that case is not the high illuminating value from the gas itself, but the high illuminating value from the mantle, which can be secured as soon as the gas has a sufficient number of heat units in it and sufficiently high flame temperature to bring the mantle up to a sufficient temperature. In England they have for many years run a number of companies—and that shows the practical side of the Englishman's character—in the southern part of England, where they only have ready access to the lower quality of coals, they always use a low quality of gas, but the farther north you go the higher the quality of gas, and when you get to Scotland the candlepower runs up pretty close to 28, but they use it to the best advantage. In Liverpool they use as high as 20 candlepower, and it has always been regarded as an extremely high candlepower city.

The CHAIRMAN. What would you say would be a fair candlepower for Washington?

Mr. HUMPHREYS. I should say that 18 candlepower would give excellent results.

Mr. CARY. Do you believe that the gas company furnishes 23 candlepower in Washington?

Mr. HUMPHREYS. I certainly do.

Mr. KELIHER. Is it fixed by regulation?

Mr. HUMPHREYS. It is fixed by the act which makes it 22, and with heavy fines which may run as high as $100 a day.

Mr. KELIHER. Do they not furnish a higher candlepower than that?

Mr. HUMPHREYS. They must do that in order to deliver it to the houses and testing stations, which otherwise they could not possibly reach with 22 candlepower, and must make it as high as 24 candlepower in order to do that; and with certain qualities of oil that we have been forced to use of late, especially the oil from Texas, we could not deliver 22 candlepower without making it, in winter time especially, even higher than 24 candlepower.

Mr. KELIHER. But you think that 18 candlepower would be sufficient?

Mr. HUMPHREYS. Yes.

Mr. KELIHER. And what bearing would that have on the price?

Mr. HUMPHREYS. A bearing of 5 cents on the price, probably.

Mr. MOORE. That would be the difference in cost of production?

Mr. HUMPHREYS. About 5 cents, I say.

Mr. SIMS. Does the candlepower have anything to do in connection with the making of water gas; in other words, can you give as high a candlepower with water gas at a lower rate of cost than without the water gas? Which is the more expensive, water gas or the other?

Mr. HUMPHREYS. That is too broad a question to answer, but I will try to explain it, however. It is the most dangerous thing in the world to generalize in this business, and that is why I testify in this way, because as I testify, it is apt to be put down as an exact statement, whereas I must make a separate statement for each place. The cost of gas will vary all over the United States, and the relative cost between coal gas and water gas will vary at each place.

Mr. SIMS. Well, take the same place then; can you not tell that?

Mr. HUMPHREYS. You can not tell until you examine the particular cost for each kind of gas, taking into account the several items in each case. For instance, it will vary as to the candlepower.

Mr. SIMS. But I am referring to the same candlepower.

Mr. HUMPHREYS. You can not get the same candlepower. Water gas, if it is used properly, is the agent employed for raising the candlepower. You make the coal gas, say, of 14 candlepower, and that is as high as the coal will naturally give you; but say you have to furnish a 24-candlepower gas, so you have to make the water gas of such candlepower, and introduce it in such proportion, that in the mixture with the lower candlepower coal gas it will bring the mixed product up to the candlepower required. That is one of the great advantages of water gas, and that is why it has been able to make its way in spite of the larger per se cost in many cases, because of the value of its mixture with coal gas. It brings the candlepower up, and you can put in so much oil as will vary the quality of the gas according to necessity from day to day. In England, when my firm went there to introduce our plant, we could not have thought of driving out the coal gas, and we did not and do not attempt such a thing, but we pointed out that if we could make the two kinds of gas in certain proportions, making coal gas in larger proportion at a constant rate, and making water to enrich and also take care of the fluctuations of demands—that is, the peak of the load—we could produce a mixed gas that would in many cases cost less than either gas if made alone. So you see that it is a pretty complicated question to cover in a hearing of this kind.

Mr. MCGAVIN. Well, suppose we come back to Washington. You are an expert whose opinion we consider of value to this committee, and I assume that you have studied this Washington question somewhat?

Mr. HUMPHREYS. Let me say in advance, before you ask the question, that I have not studied the question in detail. I have not gone into the accounts any more than I can show you by my analysis of these accounts here. In the past seven or eight years I have gone through every one, but——

Mr. MCGAVIN. Taking into consideration the price of coal-gas materials, the price of labor, and everything, can you give this com-

mittee somewhere near a definite idea as to what gas could be manufactured and sold for here?

Mr. HUMPHREYS. Yes, sir; if I made that analysis.

Mr. KELIHER. With the same candlepower as is now being served?

Mr. HUMPHREYS. Of course. We have the accounts here before us, and I see nothing in them to lead me to think, from my examination now, that they are incorrect, especially as in the past we have found them correct, as stated to me at the time. And I find nothing in this statement here, which is the gas company's published statement, to indicate that there is anything incorrect in the figures.

Mr. MCGAVIN. Is the cost indicated in that report?

Mr. HUMPHREYS. I would say from my analysis of the figures made last night that my analysis does not agree with that of Mr. Bemis.

The CHAIRMAN. What deduction do you get from them?

Mr. HUMPHREYS. The cost that I make, by their own figures, including the depreciation and deducting residuals as a credit, is 64.36 cents. Mr. Bemis puts it down at about 62 cents and then proceeds to make certain deductions from that amount.

Mr. MCGAVIN. What are these "residuals," as you call them?

Mr. HUMPHREYS. Residuals are the by-products left over after making coal gas. There are no residuals to speak of from the manufacture of water gas, so the returns from residuals seem to be small for such a large company. The residuals, of course, only apply to the amount of coal gas made, and there are no residuals from water gas excepting a small amount of water-gas tar, which is used in firing the boilers. I will give the figures I use so you can check me up, especially as I am in contradiction of Mr. Bemis. The total operating expenses, including depreciation, as given on page 3, are $1,257,079.56. On the same page, lower down, the amount of gas sold, as shown, is 1,852,689,902 feet. If the amount of expense is divided by the amount sold in thousands—in other words, in round numbers, dividing by 1,852,690, we would have the figure of 67.8 cents; but the way this report is made out that does not show to the credit of the residuals, which is stated on page 1 to be $63,770.15, which, following the same procedure, will amount to 3.44 cents per thousand. Deducing that from the 67.8 cents, we have as the cost of gas manufactured, delivered, taxes included—which, by the way, amount to 6 cents a thousand alone—as 64.36 cents delivered at the burner.

Now, in this connection I would like to explain one thing. The gas company has started a depreciation and renewal account, which is one of the most complicated things in our business, and which they state to be 7 cents per thousand. There might be a conflict there, and I might as well explain that. So as not to complicate it between the amount made and the amount sold, I will say that they use as a divisor the amount of gas made, which makes 7 cents per thousand, and that 7 cents becomes 7.77 cents when we spread the cost only over the gas sold; but in addition to the amount shown for repairs—here is the item on page 3—the damaged and worn-out meters destroyed amount to $7,328.25.

Mr. MCGAVIN. Is not that included in this other depreciation account?

Mr. HUMPHREYS. No, sir.

Mr. CARY. Do you know whether the gas company charges 25 cents a month for the use of the meter or not?

Mr. HUMPHREYS. I do not remember whether they do or not, but I do not think they do.

Mr. CARY (addressing Mr. Hart). Do they do that?

Mr. HART. No, sir; no charge.

Mr. MCGAVIN. What is this depreciation account for?

Mr. HUMPHREYS. One moment and I will get to that. The damaged and worn-out meters destroyed are put in as $7,328.25, which equals 0.4 cent a thousand, and adding to that 7.77, makes 8.17 per thousand feet sold. In my opinion, instead of this being sufficient, it is insufficient to cover repairs plus accruing depreciation; in other words, to provide for future renewals of the plant.

Mr. MCGAVIN. All other depreciation of plant and renewal is included in this depreciation acount, is it not?

Mr. HUMPHREYS. Yes; and it is very clearly indicated here as to how they do it, and more so than is generally found in these reports. They write up an amount which they say is 7 cents, and it is correctly 7 cents figured on the gas made, but 7.77 cents figured on the gas sold. They write that up as general depreciation reserve, and then charge against that the actual amount spent from year to year, leaving a balance not so wiped out by the actual cash charges to take care of the accruing depreciation and all reserve from year to year; and the fact is that the actual repairs, according to this last report, were 4.42 cents. And then there was this 0.4 cent for the destroyed meters, making 4.82 cents actual cash expenditure, and the balance is against this accrued depreciation, which I say is not sufficient, although Mr. Bemis says it is. I am familiar with his testimony in many other cases, and as far as I know he has never testified to a figure as low as that. But I want to say that that is a dangerous basis on which to make comparison in this or any other item of cost—that is, cents per thousand—unless we understand the underlying principles. We convert our costs into the form of cents per thousand after the facts have developed as a convenient means of comparison in checking up from day to day and month to month to determine whether we are doing as well as in previous like periods. The depreciation should be figured by analyzing the condition of the plant, to determine what, in our best opinion, is the amount being required to keep it up, having in view not only the physical decay, which we must indicate, but obsolescence and the chance of the plant becoming inadequate, which latter is one of the most serious items of so-called "depreciation" that we have to meet.

Mr. MCGAVIN. Then the cost of the gas to the burner is 64.36 cents plus 7.77 cents plus 0.4 cents, is it not?

Mr. HUMPHREYS. No; the figure 64.36 covers depreciation as far as covered in the company's report, but does not include as much as I believe to be necessary for that item.

Mr. SIMS. Mr. Bemis gave it as 62 cents, I think.

Mr. HUMPHREYS. I can not make it 62 cents, as Mr. Bemis figured it, and I have tried my best.

The CHAIRMAN. Mr. Bemis called our attention to another thing that I would like to have you explain. He stated that there was greater leakage here in Washington than usual. What is your view of that?

Mr. HUMPHREYS. Now, you have gotten into another pretty complicated question, this so-called "leakage." There is no such thing as it is ordinarily reported. It would be a good deal better if we used the term "unaccounted for," which would at once point to the danger of error. There is the actual leakage of gas through the mains and services, and that actual amount of leakage would indicate with a fair degree of accuracy the condition of the mains and services, but before you can determine what the actual leakage is you must be sure that all your estimating is done correctly, and the man does not live who can do it with absolute accuracy, because it has to be estimated.

Suppose we register our gas at one temperature at the works. It will be registered at different and varying temperatures at the consumers' houses, and no man knows what that average temperature will be, so it can only be estimated. Again, if the city lamps are consuming gas, that gas is not metered. We estimate what we believe each burner will consume, and so average it up, and we try to keep it as accurately in our records as we can. In my company in Buffalo I know perfectly well that the record is not absolutely accurate, because we supply more gas to the city lamps than we receive credit for. But suppose we make all the corrections indicated and then come down to what we say correctly is unaccounted for, we still have to consider this question, namely, how much gas we are going to lose in transit from the works to the consumers by reason of condensation in addition to what we apparently lose by compression due to fall in temperature. Here the quality of the oil affects our results.

Then we come to the final danger. The percentage as shown on the amount of gas sold is no indication unless we have all the facts before us, to take an extreme case, but it is a good one to point out the nature of the source of error. Suppose we had the works built to-day and we were now ready to turn the gas on.

We say we have 16,000 consumers, and we are going to turn the gas on by an electric button at a certain time to-morrow, and no gas is going to be consumed until to-morrow. Some gas would be lost over night, and we would have 100 per cent leakage, so-called, because there would not be any consumed. The only gas which passes out will be the leaked gas, and so the leakage is 100 per cent. In other words, the per cent of leakage depends upon the amount sold, and is therefore no basis for final comparison as to efficiency of operation.

Mr. MCMILLAN. Is the leakage changed by pressure?

Mr. HUMPHREYS. That affects it to a small degree, but the effect of pressure is one, I think, not in accord with the popular idea.

Mr. MCMILLAN. But an increase of pressure leads to an increase of leakage. What is the largest element of cost in producing gas?

Mr. HUMPHREYS. That varies in different places.

Mr. MCMILLAN. Is the coal, labor, machinery, genius, or what?

Mr. HUMPHREYS. Generally the largest element of cost in the manufacture is the gas-making material; coal in the case of coal gas, and oil in the case of water gas.

Mr. MCMILLAN. What material are you now using most of here, or elsewhere, wherever your investigations take you?

Mr. HUMPHREYS. Gas coal for coal gas and oil for water gas.

Mr. MCMILLAN. Which produces the best results from your experience?

Mr. HUMPHREYS. It is difficult to answer that type of a question. What do you mean by "best results?"

Mr. MCMILLAN. In the manufacture of gas.

Mr. HUMPHREYS. I can not answer any such general question, because what would produce the best results in one place might not in another. For instance, in connection with my business in Europe, I have in some few cases advised against the introduction of my own plants, because under peculiar local conditions they would not give the best results in dollars and cents; the local conditions were unfavorable. You can not generalize in that way. Probably in general the best results obtained, if you should take the average of a good many works, would be the combination plant, coal gas to take care of the solid output and water gas to take care of the fluctuating demand and the increased candlepower such as you have in Washington, but which is an extreme case. If you will put the question in some other form I will do my best to answer it.

Mr. MCMILLAN. We want to know the element that will give to the people of Washington the cheapest gas. Is it coal, oil, or what element is it, so far as your experience can indicate it to us?

Mr. HUMPHREYS. I believe that the combination of coal gas and water gas that you have here to-day will give, all things considered, the best results for the least money.

Mr. SIMS. Can the gas company here supply a gas of one candlepower at night when we need it for illuminating purposes, and during the day when they need it for fuel purposes supply a gas with a reduced candlepower?

Mr. HUMPHREYS. No; not practically. They could do it, but of course you would have very unsatisfactory results, because you would have times at night when lean, or low-candlepower, gas would reach the burners, and times in the day when rich, or high-candlepower, gas would reach the burners. In practice the gas of required candlepower could not be separated between day and night. If you had two sets of mains, of course you could send out two qualities, and by manipulating the one plant supply the two characters of gas in that way, but it would be very complicated and expensive, and I think the advantages would not at all equal the disadvantages. But now with the same works and the same mains you would have both rich and poor gas mixed, and the consumers would never know what they were going to get. The burners regulated for one quality would not be regulated for the other.

Mr. SIMS. Then they must supply the highest candlepower for both fuel and light, and when they are using the gas for fuel they are using a much higher quality of gas than is needed.

Mr. CARY. I wanted to make a comparison with the city of Wheeling, W. Va. I think it was in 1890 that they took over the gas plant themselves. Do you remember what the price was before the city took it over, and what the price is now?

Mr. HUMPHREYS. I do not remember, but I did make a very exhaustive examination of that whole question; but I do not remember.

Mr. CARY. I think it was in the neighborhood of $1.40.

Mr. HUMPHREYS. I should not wonder.

Mr. CARY. And I think now it is down to 80 cents, and they are working on the eight-hour system, too.

Mr. HUMPHREYS. I made an analysis of the Wheeling conditions, a very exhaustive one, about the year 1894, in connection with an attempt to reduce the price of gas in a western city, and this examination, I think, demonstrated beyond all question that at the western city referred to they were doing better at $1.50, as far as actual management of the plant was concerned, than at Wheeling, charging 75 cents. Wheeling is not including in its cost sufficient for repairs and renewals, and that is the case in many places in the United States under municipal management, and also in England. Take the case of the Richmond municipal plant, to which reference is frequently made. An examination was made of the Richmond plant about a year ago, and it was discovered that they needed about $705,000 to renew the plant, which should have been charged up in previous years to operating expenses for repairs and renewals, but they have done what all are very

anxious to do—endeavored to make as good a showing as possible. At 75 cents Wheeling makes a loss instead of a profit, if all items of cost are included.

Mr. SIMS. From what you know about the Washington Gas Company's plant, and of the kind of gas they supply, what would be a fair and reasonable price for the gas furnished here, all things considered?

Mr. HUMPHREYS. I find in an analysis of their report as to the conditions under which they operate, which are extremely severe in the way of inspections and so forth, and the fines that they are liable to——

Mr. TAYLOR. Do you mean to say that that is a matter of any importance, that they have to pay out any considerable sum in fines? You mean that they might have to pay them, is not that it?

Mr. HUMPHREYS. They have to pay out quite a sum to avoid them. For instance, they have a most elaborate system, not only of settling their tar, but as is quite unusual with gas companies, they actually filter every drop of it. That can not be done without an expenditure of money.

Mr. MOORE. But suppose you simply put in a fair return to the company upon the investment.

Mr. SIMS. Yes, including the items to be considered, including a return on the capital, that is proper. You know what that is, what it should be, what is a fair price for the manufacture of gas of the quality that is served here?

Mr. HUMPHREYS. I believe that the price of a dollar per thousand with the conditions as you find them here to-day, and the quality of gas delivered, is absolutely a fair price in order to give a fair return on the capital invested, which capital, as we find it here, does not begin to represent even the structural value.

Mr. SIMS. Do you mean simply the $2,600,000?

Mr. HUMPHREYS. No; I mean $2,600,000, plus $2,600,000, plus, say, $600,000. That is the total capitalization, par value, including stocks and bonds. That, in my opinion, does not begin to represent the structural value of the Washington Gas Company's plant.

The CHAIRMAN. The physical value?

Mr. HUMPHREYS. The physical value. I have not made a critical examination, and I start in with that statement in advance and would not hesitate at all to make it.

Mr. SIMS. Taking it for granted that the company has always paid remunerative dividends on the stock that is out and has paid for the structural cost out of the earnings in addition to the dividends, should they also have dividends on the structural plant?

Mr. HUMPHREYS. My opinion is, though I am not a lawyer—but I am inclined to think that the highest courts in the land will follow the same line—that the carnings that have been put into a plant are the possession of the stockholders, and it does not make any difference whether those earnings have been taken out in dividends and then a certain amount paid back and put back into the plant or not. Those stockholders own that plant.

Mr. SIMS. But that is not what I was asking you. Taking it for granted that the dividends paid have been fair and reasonable upon the stock issued, and then enough has been charged over and above that to build the structure, should that have any effect in fixing the price of gas now?

Mr. HUMPHREYS. I believe so, certainly. I believe that that is money that belongs to the stockholders.

Mr. SIMS. In addition to the dividends already paid? Suppose the stockholders had received the dividends, and then in addition money has been used to enable them to make the improvements and additions, should the price of gas now be fixed with reference to that fact or not; should it be considered?

Mr. HUMPHREYS. I believe it should. I believe that independent of whether it is a fair dividend or not, the thing was permitted at the time, and that money belongs to the stockholders. The earnings were allowed at the time under those conditions, whether they have charged an exorbitant price or not. But that is not my experience generally in the general gas business, and I doubt whether it is the experience here; but it does not make any difference whether it is a question of dividing up dividends or not. Supposing you should say that 10 per cent on the actual investment, or the property value, was a fair dividend, and the stockholders have been receiving 6 per cent. Then they are entitled to that other 4 per cent, even if it has been stated in advance that that shall be the limit. Take, for instance, the New York Consolidated Gas case—one which I have been largely interested in. We proved conclusively that we had not been building a plant out of earnings wrongfully made, but that the dividend had been at a low rate, sometimes as low as 3 per cent, for many years simply on a capitalization not in excess of actual value. Certainly in those cases the money put back in the plant belonged to the stockholders, and it certainly would be correct to say that they owned it; and in addition to that the property as a whole is made safer, because the undivided profits are so tied up for the benefit of the creditor.

Mr. SIMS. Supposing there had been a 10 per cent dividend paid all along, and this additional added value by way of structure had also been met out of the earnings, in increasing the capital, should that amount, whatever it may be, be added to the capital and included in it, and entitled to earnings just as though no dividend had been paid?

Mr. HUMPHREYS. I should say yes, as a question of right. They have a right to certificates of value for those additional earnings apart from the question of the original stock. But before you established the actual rights in the case, you would have to find out whether the certificates of stock as issued represent the actual value of the property. In Washington for many years they did not begin to represent the value in its stock issue. Washington, Cleveland, Cincinnati are three marked cases of companies capitalized away below their actual value. Now, if they paid 10 per cent on those valuations, they are certainly entitled to more.

Mr. SIMS. You are here, in part, to give your opinion as to whether a bill should be passed that will repeal a law authorizing capitalization on actual value. What we want to get at is whether or not that law ought to pass, or be amended, or remain as it is. And that law, as is shown by a suit that has already been instituted, includes franchise value, rights, and good will. Of course it also includes the physical or actual money value of the property as part of it. Now, as to the extent of the franchise, good will, and rights, ought that to be covered by an issue of stock?

Mr. HUMPHREYS. I should say it should. Any of us in business know that a mere physical plant without a business does not begin to be worth what that same plant would be worth with the business attached to it. And a question of estimating the value of a plant as only of the value of the mortar, bricks, and iron is to my mind absolutely absurd.

Mr. CARY. Right on the back of this bill it says: "These prices apply to all gas used by any one consumer, with one meter or with any number of meters located in one building," and so forth, showing that it is a uniform price all the way through?

Mr. HUMPHREYS. That is what I understand you to say.

On that question of capitalization, Mr. Bemis in his testimony referred to a very marked case at Haverhill, Mass. There is a case where the physical capitalization per thousand feet of gas sold per year is probably not less than $5 to $6. Now, what have they got on their books: Sixty-three cents; and why? Because here they have followed the very misleading practice that they have been following in Massachusetts under the direction of a commission, and now are beginning to see the boomerang of blindly charging up a lump sum for depreciation and crediting it to the plant. They meet around the directors' table and some dear old gentleman says: "I think we have made a nice lot of money this year, and we will put up $30,000 for depreciation." They have done that in Haverhill until they have reduced their book value of plant to 63 cents per thousand although they could not reproduce that plant, without any good will or anything else, for probably less than $5.

Mr. SIMS. Will you allow me to ask you by whose invitation you have appeared here?

Mr. HUMPHREYS. The gas company's.

Mr. MCMILLAN. Upon that question of the pressure of gas in the pipes, what influence has the pressure, if any, upon the meter?

Mr. HUMPHREYS. In what way?

Mr. MCMILLAN. In increasing the consumption—in giving evidence of consumption. What injury does it work to the consumer? Please give a good, clear, concise statement on that. A great many people think that there is more injury caused from the pressure than through the increased price of gas.

Mr. HUMPHREYS. It is a very difficult matter to make a clear and concise statement without being technical.

Mr. MCMILLAN. But you ought to put yourself on record upon that point.

Mr. HUMPHREYS. I think I did that before you came in.

Mr. CARY. Is not there a law in the District of Columbia at present that the company can not charge over a dollar per thousand for gas?

Mr. SIMS. I think not; I think it is $1.10.

Mr. HUMPHREYS. Replying to the question asked by Mr. McMillan, I will say that if I take an amount of gas and squeeze it, I can get more in a cylinder than if I do not squeeze it. The harder the pressure the more gas can be squeezed in a cylinder.

Mr. MCMILLAN. And the more the pressure the more consumed?

Mr. HUMPHREYS. No; I think not. That will not affect the consumption at all.

The CHAIRMAN. I would like to ask you why gas can not be sold as cheap in Georgetown as in Washington?

Mr. HUMPHREYS. Well, it is a more scattered district, and, as a rule, in general, as I have stated—you can not always follow a rule—but the general rule is that it costs more to make gas in smaller communities and distribute it than in the larger cities. There are certain exceptions that sometimes, on analysis, will show that the rule is not followed. But as a rule the smaller place has to charge more for gas than the larger one.

The CHAIRMAN. In that New York case was anything taken into consideration besides the physical value of the gas company?

Mr. HUMPHREYS. Yes.

The CHAIRMAN. What was taken into consideration in that case?

Mr. HUMPHREYS. My recollection is on the last decision, which I confess I have not had time to read—Judge Hough's last decision—that $20,000,000 was allowed for franchise and good will, I think. But I am not positive about that; it might have been $12,000,000. Upon second thought, I am confident that the judge stated it was not less than $12,000,000.

The CHAIRMAN. As you have not had sufficient time to make a thorough investigation here, I would like to ask you if you can and will in the near future tell this committee what gas ought to be and can be sold for in Washington and allow a fair profit to the company, and at both 18 and 23 candlepower? I have been told that we ought to get along with 18 candlepower, and that the people would be just as well satisfied and would then have the benefit of a reduction in price. If that is the case, I would like to know it.

Mr. HUMPHREYS. Very well.

Mr. KELIHER. Will you also furnish the committee your idea of the relative cost at tide water per ton of coal in the cities of Washington, New York, and Boston?

Mr. HUMPHREYS. Of course, in the Boston case we will have to take into account the special contract with the Dominion Coal Company, which, I think, has been modified some 5 cents.

Mr. KELIHER. What I have in mind is regardless of any contract. What should be the cost of the coal?

Mr. HUMPHREYS. I will put that in as a side memorandum and take the ordinary commercial gas coal as delivered in Boston. Of course it is not for me to say that I will do this; it is for the Washington Gas Company to say whether they will employ me to do it or not, as I am a rather expensive man.

The CHAIRMAN. Mr. Bemis has consented to come back here, the other side has consented to bring him back, and I apprehend that if the committee is going to take your testimony or that of anybody else it ought to have the benefit of at least enough time of the witness to satisfy ourselves as to the value of the testimony.

Mr. HUMPHREYS. I am a little modest about talking about it. I am not the principal, I have to be employed, and I presume that my charge is probably ten times that of Mr. Bemis.

Mr. HART. He will be retained.

Mr. SIMS. Which is the greater cost, coal or oil, in the manufacture of water gas alone?

Mr. HUMPHREYS. The oil is the chief element of cost in the case of water gas.

Mr. SIMS. So that if there is a larger percentage of water gas, the oil cost will become greater relatively if we use the high candlepower; that is, if you reduce the candlepower you reduce the oil cost, and that would reduce the general price?

Mr. HUMPHREYS. That is where the saving comes in.

Mr. SIMS. In answer to a question, in which you said that you are employed by the gas company; I suppose that fact has nothing to do with the answers you have given?

Mr. HUMPHREYS. No; not at all; I hope I am answering the questions absolutely upon what I believe to be true.

Mr. SIMS. I understood you to say a moment ago that if you answered certain questions it would depend upon whether you were employed or not.

Mr. HUMPHREYS. Oh, no. The question the chairman asked me was whether I would come here again to answer certain additional ques-

tions, and that would mean a long investigation and an additional cost to the company.

Mr. MCMILLAN. Have you examined this gas plant here?

Mr. HUMPHREYS. In a general way.

Mr. MCMILLAN. So far as you know, is this plant an up-to-date plant?

Mr. HUMPHREYS. Yes, sir.

Mr. MCMILLAN. That is, all the appliances that are now used in the manufacture of gas are used here, so far as you know?

Mr. HUMPHREYS. So far as I know. Of course we could rebuild the works every year and probably bring in something new.

Mr. MCMILLAN. In other words, the works here are really up-to-date works and have been kept so?

Mr. HUMPHREYS. Yes; and admirably managed works. Since I was here a year or two ago they have made some distinct improvements.

Mr. MCMILLAN. Do they use modern means to cheapen gas?

Mr. HUMPHREYS. They might possibly cheapen it a little bit.

Mr. MCMILLAN. What fuel do they use now for generating gas—coal, oil, or what?

Mr. HUMPHREYS. They use what is known as "gas coal."

Mr. MCMILLAN. Soft coal?

Mr. HUMPHREYS. That is a particular kind of bituminous coal adapted to the making of coal gas, because it is of a high volatile character, and with a large amount of gas held in it. That does not necessarily mean that any rich soft coal is good gas coal, because it must be free from excess of sulphur. Then they use an anthracite to make the water gas. Water gas has to be made by just the opposite kind of carbon from coal gas. It must be made from coal that is free from bituminous matter, so they are obliged to use both kinds of coal. They also use the coke from the coal-gas works in making their water gas.

Mr. MCMILLAN. And you consider that a modern means?

Mr. HUMPHREYS. Yes; and on top of that they use oil.

The CHAIRMAN. I heard last night that gas was sold in Cincinnati for 50 cents a thousand, and I would like to ask you why it can not be sold as cheap in Washington?

Mr. HUMPHREYS. But that is not true; gas is sold at 50 cents in Cincinnati, yes, under certain arrangements as to what it is to be used for. I figured up last night from the returns, and I made up my mind that, as close as we could figure it from the reports, the average price is 66¼ cents in Cincinnati.

Mr. HART. Will you allow me to ask what the candlepower is in Cincinnati?

Mr. HUMPHREYS. The candlepower is 17.

The CHAIRMAN. You say that it is sold in Cincinnati for about 66 cents?

Mr. HUMPHREYS. It averages about 66¼ cents.

The CHAIRMAN. There is a difference of candlepower, you say, of 5—between 17 and 23. If we allowed for that difference, would it be the same price here?

Mr. HUMPHREYS. No.

The CHAIRMAN. Why?

Mr. HUMPHREYS. Because Cincinnati is one of the cheapest places in the United States for the delivery of gas coal. It has always been one of the cheapest places for gas coal in the United States; and it also has been always a very low candlepower city.

Mr. SIMS. Would it be cheaper with water gas?

Mr. HUMPHREYS. No; they never have used much water gas because of their ability to make a cheap coal gas due to the particular materials at hand, just as they do in England. I put in a plant for water gas in Cincinnati in 1892, but they have never used it regularly, just holding it in reserve for emergencies.

Mr. SIMS. You state that the present price of a dollar per thousand, in view of the conditions prevailing here, you believe to be a reasonable and fair price?

Mr. HUMPHREYS. I believe it to be so.

Mr. SIMS. Supposing these conditions continue, but the city grows larger and the population increases, would that not give a greater profit?

Mr. HUMPHREYS. Yes.

Mr. SIMS. Then what would you suggest, if anything, in the line of a sliding scale, for instance, a sliding scale beginning with a dollar as now, and in two or three years bring it down——

Mr. HUMPHREYS. I should not want to answer that question offhand, because the conditions vary so with increased population. I was surprised on comparing New York with London to find that the increase there from a sale per capita was about six thousand up to ninety-two hundred per capita, and it had not produced a decrease of cost, because the actual cost of distribution in New York had increased in spite of the large increase per capita and in spite of having probably the largest sale per mile of mains in the United States.

Mr. SIMS. I am only assuming that the present cost of materials will be maintained. The price might go up or down?

Mr. HUMPHREYS. I am not referring to that so much as the congestion in the streets. That has been the great trouble in New York—the tremendous cost of operating in the streets and repairing them.

Mr. SIMS. But that will never exist here, in all probability.

Mr. HUMPHREYS. To no such extent; no, sir; I should not imagine so. You have broader streets for one thing.

Adjourned at 11.50 a. m.

COMMUNICATION FROM MR. HUMPHREYS.

In a letter addressed to the committee, under date of April 21, 1908, Mr. Humphreys, in referring to his statement, says:

"There is one correction I would like to make, but hardly feel warranted in doing so, because it is based upon information obtained since I returned to New York. You will remember that they questioned my statement that coal was dearer in Detroit than in Washington. I have made the statement that I felt quite sure that I was correct. If there is any way to have it so, I would like to have it appear that this statement is confirmed. If you think it is proper to put it in as parenthesis, I would be very glad to have you do so.

"I find that, under ordinary circumstances, there is a difference of about 50 cents in favor of Detroit."

Mr. MANN. Mr. Speaker, I would like to offer an amendment covering the matter of a discount for payment of the bill in cash within a certain time in this form, if the gentleman will yield for that purpose: After the word "feet," in line 10, add the word "net," so that it will read:

Ninety cents per thousand cubic feet net: *Provided*, That 10 cents per thousand cubic feet additional may be collected on any bill which is not paid within twenty days from the time of mailing the bill to the consumer.

The SPEAKER pro tempore. The Chair will state to the gentleman from Illinois that there is a motion pending before the House to recommit the bill.

Mr. MANN. I was not going to offer the amendment; I was going to ask if the gentleman from Michigan would yield to me for the purpose of offering that amendment.

The SPEAKER pro tempore. The question is on the motion of the gentleman from New York, that the bill be recommitted to the committee.

The question was taken; and on a division (demanded by Mr. MCMILLAN) there were—ayes 4, noes 61.

So the motion to recommit was rejected.

Mr. MCMILLAN. Mr. Speaker, I wish you would state the issue; these gentlemen do not know what they are voting upon.

The question was taken, and the amendment was rejected.

The SPEAKER pro tempore. The question now is upon the committee amendment.

Mr. MANN. This is not a committee amendment. Will the gentleman from Michigan yield to me for the purpose of offering an amendment?

The SPEAKER pro tempore. The amendment of the gentleman from Illinois has not been submitted.

Mr. MANN. I have no authority to offer an amendment unless the gentleman yields to me for that purpose.

The SPEAKER pro tempore. Does the gentleman from Michigan yield to the gentleman from Illinois?

Mr. SMITH of Michigan. No, Mr. Speaker; I do not feel like receiving the amendment and I ask for a vote.

Mr. FITZGERALD. Mr. Speaker, I desire to offer an amendment to the committee amendment——

Mr. CAMPBELL. There is no committee amendment.

Mr. FITZGERALD (continuing). To strike out the word "ninety" and insert the word "eighty-five," line 9.

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from New York.

The Clerk read as follows:

Strike out the proposed amendment and insert in lieu thereof "eighty-five."

The question was taken, and the Chair announced he was in doubt.

The House divided; and there were—ayes 61, noes 33.

Accordingly the amendment was agreed to.

The bill as amended was ordered to be engrossed and read the third time, was read the third time, and passed.

On motion of Mr. MADDEN, a motion to reconsider the vote was laid on the table.

AMENDMENT OF EMPLOYMENT AGENCY ACT.

Mr. SMITH of Michigan. Mr. Speaker, I desire to call up the bill H. R. 20247.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 20247) to amend section 8 of an act entitled "An act to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations," approved June 19, 1906.

Be it enacted, etc., That section 8 of an act entitled "An act to regulate the keeping of employment agencies in the District of Columbia where fees are charged for procuring employment or situations," approved June 19, 1906, be amended to read as follows:

"SEC. 8. That the fees charged for the employment of agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrubwomen, nurses (except professional nurses), chambermaids, maids of all work, domestics, servants, or other laborers (except seamen), or for the purpose of procuring or giving information concerning such person for or to employers, shall be as follows:

"Employment agents or agencies shall be entitled to receive in advance from an employer, for male or female employees, $2 each: *Provided*, That such fee shall entitle said employer to at least thirty days' service from said male or female employee, or from other employees at the same rate of wages to be furnished by said employment agent or agencies.

"Employment agents or agencies shall be entitled to receive in advance from the applicant for work or employment, either male or female, $1 each, one-half of which is to be returned on demand if such applicant is not secured a fair opportunity of employment within thirty days after the receipt of said original fee of $1: *Provided*, That where the male or female employee receives employment at a rate of wage of $25 per month or more, said employment agent or agency shall, on obtaining employment for such employee, receive an additional $1 from said employee: *Provided*, That the whole fee and any sums paid by the applicant for transportation in going to and returning from such employer shall be refunded within four days of demand, if no employment of the kind applied for was vacant at the place to which the applicant was directed: *And provided further*, That it shall be unlawful for any employment agent or agency to receive more than the fees set forth in this act in the business aforesaid.

"It shall be the duty of such licensed person to give to every applicant for employment from whom a fee shall be received a receipt in which shall be stated the name of said applicant, the date and amount of the fee, and the purpose for which it was paid, and to every appli-

cant for help a receipt stating the name and address of said applicant, the date and amount of the fee, and the kind of help to be provided. Every such receipt, excepting only those given by theatrical and teachers' agencies and those procuring technical, clerical, sales, and executive positions for men only, shall have printed on the back thereof a copy of this section in the English language. No such licensed person shall divide fees with contractors or their agents or other employers or anyone in their employ to whom applicants for employment are sent. Every such licensed person shall give to each applicant for employment a card or printed paper containing the name of the applicant for employment, name and address of such employment agency, and the written name and address of the person to whom the applicant is sent for employment. Every such licensed person shall post in a conspicuous place in each room of such agency a plain and legible copy of this act, which shall be printed in large type."

The committee amendment was read, as follows:

In page 2, line 7, after the word "employees," insert the words "at the same rate of wages."

Mr. SMITH of Michigan. Mr. Speaker, I yield to the gentleman from Ohio [Mr. TAYLOR].

Mr. TAYLOR of Ohio. Mr. Speaker, the object of this amendment, and the only amendment to the existing law, is to increase the fees paid by persons employing help from $1 to $2, and the reason for that is that in the law which was passed a little over two years ago, providing for the regulation of employment agencies and the fees to be charged, a dollar was allowed to be paid by the employer and a dollar by the servant. That was simply an experiment. We had no data to go on, and after two years of trial and after a careful investigation of more than a dozen respectable and first-class agencies we came to the conclusion, justifiably, I believe, that the fee was too small to maintain the high-class and proper agencies that we are trying to keep up in this District.

Members of the committee gave personal investigation of more than a dozen places, and hearings were given to more than a dozen persons interested in employment agencies, also to certain ladies of the District who are interested in this line of work. This was the recommendation of all of those people. As an additional consideration for this extra dollar, the committee has inserted a proviso that the employer, after paying his $2, shall have for thirty days a chance to test out a servant and get a proper servant without additional charge. That is a very valuable suggestion, and we hope it will be enacted into law with this amendment. The only other amendment is where the salary of a servant is $25, from $25 up, which is more than the average salary, the employer of the agency may receive an additional dollar. Up to $25 they shall only receive a dollar, as now provided in the law in existence. These are the only amendments, and I have given the reasons for the amendments.

Mr. CAULFIELD. What are the customary fees charged in places throughout the country?

Mr. TAYLOR of Ohio. As near as I can get at it, in the larger cities it is on a percentage basis, which works out a much larger fee than anything paid in Washington. In some cities it is scaled according to the salary.

Mr. CAULFIELD. How long does this percentage continue?

Mr. TAYLOR of Ohio. Just one payment.

Mr. CAULFIELD. Is a license required of these people under this law?

Mr. TAYLOR of Ohio. Yes; a license is provided for. Now, if there are no further questions, I ask for a vote.

The SPEAKER. Without objection, the committee amendment will be considered as adopted.

There was no objection.

The bill as amended was ordered to be engrossed and read a third time, was read a third, and passed.

On motion of Mr. TAYLOR of Ohio, the motion to reconsider the vote by which the bill as amended was passed was laid on the table.

INFERIOR COURT JUSTICE OF THE PEACE.

Mr. SMITH of Michigan. Mr. Speaker, I desire to call up the bill S. 6359, entitled "An act to change the name and jurisdiction of the inferior court of justice of the peace of the District of Columbia."

The SPEAKER. The Clerk will report the bill.

The Clerk proceeded with the reading of the bill.

During the reading—

Mr. UNDERWOOD. I desire to make a point of order that this bill ought to be on the Union Calendar. It is the proper place to consider it, I think; and it is now getting late, too. I understand the bill creates offices and changes offices, and necessarily ought to go to the Union Calendar; also, it fixes the compensation.

Mr. MANN. It fixes a compensation or rental at $1,800 a year.

Mr. MACON. And fixes salary, too.

Mr. CAMPBELL. But it does not provide for any appropriation.

The SPEAKER. If it makes a charge upon the Treasury of the United States, it is surely subject to the point of order. The Chair is causing the bill to be examined to see whether it makes a charge upon the District revenues alone or upon the Treasury itself.

Mr. MANN. It provides for a rental of $1,800 a year, and that itself would put it upon the Union Calendar.

The SPEAKER. The gentleman will point out the provision.

Mr. FITZGERALD. Under the organic act the judges are paid half from the revenues of the District of Columbia and half from the Treasury of the United States.

The SPEAKER. The Chair is trying to ascertain, and therefore asks the gentleman whether or no, under the terms of this act, the salaries and expenditures referred to in the act are payable from the District revenues or from the Treasury of the United States.

Mr. FITZGERALD. The act does not say, and unless the act specifically directs that they shall be paid out of the District revenues, they are paid out of the Treasury of the United States.

Mr. SMITH of Michigan. On page 4, beginning with the fourteenth line, the bill reads:

The said court shall have power to employ a clerk at an annual salary of $1,500; and an assistant clerk at an annual salary of $1,000, payable monthly by the District of Columbia, which clerks shall hold office at the pleasure of the court.

Mr. CAMPBELL. At this time the court collects fees. This money is turned into the Treasury, and out of that money the salaries and rentals are paid, and there is still a surplus left that goes into the Treasury. The salaries of the six justices are reduced from $3,000 to $2,500, and the salary of the clerks will average about what the reduction amounts to. Also, we pay rent now for the buildings that are occupied by the six justices. Our proposition is to put them all in one building instead of keeping them in six.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. CAMPBELL. Yes.

Mr. MANN. On page 2, line 16, the bill says:

Such municipal court shall sit for the trial of causes in one building, to be designated by the Commissioners of the District of Columbia, to be rented by said District of Columbia at a rental not to exceed $1,800 per annum.

Mr. CAMPBELL. And the aggregate rent we pay now amounts to more than that.

Mr. MANN. That is all the same. Here is an express provision not now authorized by law, providing for the rental of a building in the District of Columbia, and no provision being made as to how it shall be paid; and yet, by the organic act, one-half is paid out of the National Treasury and half out of the District treasury.

Mr. MADDEN. I would like to ask the gentleman from Kansas if it is not a fact that all the men appointed to these municipal judgeships will have police powers?

Mr. CAMPBELL. Yes; and they have now.

Mr. MADDEN. Is it a fact that all the police court fines are covered into the police insurance fund?

Mr. CAMPBELL. No; when they sit as police judges they go into the police court and sit there and merely try causes. The clerk of the police court has charge, rather than the clerk of the municipal court.

Mr. UNDERWOOD. Mr. Speaker, if I can have the attention of the chairman of the committee a minute. The reasons I raised the point of order are these: I do not know that I am opposed to the bill, but it is a very important bill, the hour is late, but few Members are here, and I think it is too late to consider this bill at this time. Manifestly there is not a quorum here, and I ask the gentleman, to save time, to withdraw the bill for the present. Unquestionably he can not go along with it.

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent that the District Committee may have one hour to-morrow for District business. We have three or four more bills. This committee did not have a regular day from the 23d day of March last until the adjournment on the 30th of May.

The SPEAKER. Pending the point of order, the gentleman from Michigan asks unanimous consent that the Committee on the District of Columbia may have one hour of to-morrow's session as of to-day. Is there objection to the request? [After a pause.] The Chair hears none.

The Chair desires to state that the gentleman from Illinois calls attention to line 16, page 2:

Said municipal court shall sit for the trial of causes in one building, to be designated by the Commissioners of the District of Columbia, to be rented by said District of Columbia, at a rental not to exceed $1,800 per annum.

The line of decisions is that it must appear from the face of the bill and not as a matter of argument or speculation that the bill makes a charge upon the Treasury. The Chair will take time to read the bill through very carefully, if it is desired. The Chair can not decide the point of order without a careful examination of the bill.

Mr. SMITH of Michigan. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman moves that the House do now adjourn. Pending that, the Chair lays before the House the following request from the Senate for the return of a bill.

The Clerk read as follows:

In the Senate of the United States, December 14, 1908.

Resolved, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H. R. 16743) for the removal of restrictions of alienation of lands of allottees in the Quapaw Agency, Okla., and the sale of all tribal lands, school, agency, or other buildings of any of the reservations within the jurisdiction of said agency, and for other purposes.

The SPEAKER. Without objection, the bill will be returned.

There was no objection.

ENROLLED JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. R. 78. Joint resolution establishing the boundary line between the States of Colorado and Oklahoma and Territory of New Mexico.

LEAVE OF ABSENCE.

Mr. MARSHALL, by unanimous consent, obtained leave of absence, indefinitely, on account of sickness.

WITHDRAWAL OF PAPERS.

Mr. WEEMS, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of Andrew Crowl (H. R. 18170), Fifty-ninth Congress, no adverse report having been made thereon.

The motion to adjourn was then agreed to; and accordingly (at 5 o'clock and 9 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Interior, transmitting data in relation to railroads in Alaska under the act of May 14, 1898—to the Committee on the Territories and ordered to be printed with illustrations.

A letter from the Postmaster-General, transmitting papers on the claim of Cadmus Crabill—to the Committee on Claims and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of State submitting explanations in connection with estimates of appropriation for foreign intercourse—to the Committee on Foreign Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a response to the inquiry of the House in relation to admission of manganiferous iron ore at ports of entry—to the Committee on Ways and Means and ordered to print manuscript, but not the book.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appropriation for irrigation on Indian reservations—to the Committee on Indian Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Postmaster-General submitting an estimate of reappropriation for street railway tracks at the Baltimore post-office—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of Commerce and Labor submitting an estimate of appropriation for taking the Thirteenth Decennial Census—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of Commerce and Labor submitting an estimate of appropriation for the establishment of a fish-cultural station in the upper Mississippi Valley—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Interior, transmitting a petition of the Sac and Fox Indians of Oklahoma, praying for the payment of certain trust funds—to the Committee on Indian Affairs and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Thomas Williams against The United States—to the Committee on War Claims and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of J. P. Matthews, administrator of estate of Nathan Gradick, against The United States—to the Committee on War Claims and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of L. H. Kelly, administrator of estate of John McH. Kelly and Allie V. Kelly, against The United States—to the Committee on War Claims and ordered to be printed.

A letter from the Secretary of the Interior, proposing legislation authorizing the construction of road and bridges in Warm Springs Reservation, Oreg.—to the Committee on Indian Affairs and ordered to be printed.

A letter from the Secretary of the Interior, transmitting, with draft of a bill, recommendations as to construction of a bridge over Little Colorado River, abutting on Navajo Reservation—to the Committee on Indian Affairs and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 22361) granting an increase of pension to John Marshall—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22362) granting an increase of pension to John C. Cribbs—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22363) granting an increase of pension to George D. Hamm—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22364) granting an increase of pension to John Lukecart—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 22365) granting an increase of pension to William E. Weckerley—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 23279) granting an increase of pension to Samuel F. Dyer—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23357) granting a pension to Ellen M. Brennan—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23358) granting a pension to Harry Menovitz—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23379) granting a pension to Ruthey J. Robinson—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23400) granting a pension to Jacob H. Mose—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23401) granting a pension to Charles E. Welker—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 23404) granting an increase of pension to Mary Gorman—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 22963) granting an increase of pension to Anna Irvine—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. DOUGLAS: A bill (H. R. 23971) to amend section 2 of an act approved June 27, 1890, entitled "An act granting pensions," etc.—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23972) to amend section 4708, laws of the United States, granting pensions, etc.—to the Committee on Invalid Pensions.

By Mr. CARLIN: A bill (H. R. 23973) for the relief of pensioners of the Metropolitan police fund—to the Committee on the District of Columbia.

By Mr. CRUMPACKER: A bill (H. R. 23974) providing for a light-ship in Lake Michigan off the harbor at Gary, Ind.—to the Committee on Interstate and Foreign Commerce.

By Mr. FOCHT: A bill (H. R. 23975) to amend an act entitled "An act to amend an act entitled 'An act amending section 4708 of the Revised Statutes of the United States in relation to pensions to remarried widows,'" approved February 28, 1903—to the Committee on Invalid Pensions.

By Mr. McKINNEY (by request): A bill (H. R. 23976) to correct the mistakes in the location and construction of the Illinois and Mississippi Canal, the lock and dams within and near the village of Milan, county of Rock Island, and State of Illinois—to the Committee on Rivers and Harbors.

By Mr. MAYNARD: A bill (H. R. 23977) to provide for acquirement by condemnation of lands at Cape Henry, Va., for the purpose of fortification and coast defense—to the Committee on Appropriations.

By Mr. LAFEAN: A bill (H. R. 23978) to authorize and direct the Secretary of War to purchase certain lands on the battlefield of Gettysburg, and making an appropriation therefor—to the Committee on Appropriations.

By Mr. THOMAS of North Carolina: A bill (H. R. 23979) authorizing the Secretary of War to expend moneys already appropriated for Beaufort Harbor, North Carolina, for certain improvements in said harbor and for an additional appropriation of $18,000 for said harbor—to the Committee on Rivers and Harbors.

By Mr. HIGGINS: A bill (H. R. 23980) to provide for a survey of the Mystic River, Connecticut—to the Committee on Rivers and Harbors.

By Mr. LOVERING: A bill (H. R. 23981) to amend the act to increase the limit of cost of certain public buildings, etc., approved June 30, 1906, and the act to increase the limit of cost of certain public buildings, etc., approved May 30, 1908—to the Committee on Public Buildings and Grounds.

By Mr. LOUDENSLAGER: A bill (H. R. 23982) for the erection of a public building at the city of Woodbury, in the State of New Jersey—to the Committee on Public Buildings and Grounds.

By Mr. WILEY: A bill (H. R. 24134) directing the fixing of a standard of cotton classification in the transaction of cotton business by the exchanges in the United States—to the Committee on Agriculture.

By Mr. BENNET of New York: Resolution (H. Res. 455) to amend the rules as to the admission of reporters to the floor of the House of Representatives—to the Committee on Rules.

By Mr. MOORE of Pennsylvania: Joint resolution (H. J. Res. 203) to authorize the Secretary of State to invite the permanent International Association of Navigation Congresses to hold in the United States, in the year 1911, the Twelfth International Congress of Navigation—to the Committee on Foreign Affairs.

By Mr. WILEY: Joint resolution (H. J. Res. 204) authorizing and directing the Secretary of War to cause an examination and survey to be made of an inland waterway or canal from Mobile Bay to Perdido Bay and from the latter bay to Escambia Bay of such width and depth as will be sufficient to permit of the navigation of such vessels as ordinarily navigate said bays—to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 23983) granting a pension to Thomas M. Smith—to the Committee on Invalid Pensions.

By Mr. ALEXANDER of Missouri: A bill (H. R. 23984) granting a pension to Lucy R. Woodward—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23985) granting a pension to Sabina Pierce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23986) granting an increase of pension to Alexander M. Rainey—to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 23987) granting an increase of pension to Mathias Hicks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23988) granting an increase of pension to John Love—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23989) granting a pension to Amanda S. Kline—to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 23990) granting an increase of pension to Rollin B. Shower—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23991) granting an increase of pension to George Abrams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23992) granting an increase of pension to William R. Vanhoozer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23993) granting an increase of pension to Michael Knight—to the Committee on Invalid Pensions.

By Mr. BARTLETT of Georgia: A bill (H. R. 23994) for the relief of J. M. King—to the Committee on Claims.

By Mr. BROWNLOW: A bill (H. R. 23995) granting a pension to Oscar C. Oliver—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23996) granting a pension to Elizabeth L. Bayliss—to the Committee on Invalid Pensions.

Also, a bill (H. R. 23997) granting an increase of pension to Enoch Carter—to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 23998) granting a pension to Jane Elvin—to the Committee on Invalid Pensions.

By Mr. CALE: A bill (H. R. 23999) granting an increase of pension to William H. Chapin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24000) granting an increase of pension to Adelbert Jones—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24001) granting an increase of pension to Byron T. Gibson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24002) granting an increase of pension to Albert F. Pierce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24003) granting an increase of pension to Charles E. Hinman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24004) granting an increase of pension to William H. Meade—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24005) granting an increase of pension to James A. Benjamin—to the Committee on Invalid Pensions.

By Mr. CANNON: A bill (H. R. 24006) granting an increase of pension to Josiah D. Mater—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24007) granting an increase of pension to William A. Rose—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24008) granting an increase of pension to Lewis Hannah—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24009) granting a pension to Izora O. Cook—to the Committee on Invalid Pensions.

By Mr. CHANEY: A bill (H. R. 24010) granting an increase of pension to Edward E. Thorn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24011) granting an increase of pension to George W. Bennett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24012) granting an increase of pension to David Jarvis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24013) granting an increase of pension to James A. Medaris—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24014) granting an increase of pension to John D. Bray—to the Committee on Pensions.

Also, a bill (H. R. 24015) granting an increase of pension to Louis R. Edmunds—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24016) granting an increase of pension to Silas R. Houston—to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 24017) granting an increase of pension to John Rees—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24018) granting an increase of pension to Chamness S. Burks—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24019) granting an increase of pension to Marcus H. Ingram—to the Committee on Invalid Pensions.

By Mr. CUSHMAN: A bill (H. R. 24020) granting a pension to Esther M. Stanley—to the Committee on Invalid Pensions.

By Mr. DIXON: A bill (H. R. 24021) granting an increase of pension to Thomas A. Pearce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24022) granting an increase of pension to Sylvester Justis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24023) granting an increase of pension to Julius Lane—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24024) granting an increase of pension to Jasper Ross—to the Committee on Invalid Pensions.

By Mr. DOUGLAS: A bill (H. R. 24025) granting an increase of pension to Henry Duddleson—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 24026) granting an increase of pension to Hiram Cornish—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24027) granting an increase of pension to Nathaniel J. Robinson—to the Committee on Invalid Pensions.

By Mr. FITZGERALD: A bill (H. R. 24028) granting an increase of pension to James E. Reilly—to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 24029) for the relief of Alexander Everhart—to the Committee on Military Affairs.

By Mr. FOSTER of Illinois: A bill (H. R. 24030) granting an increase of pension to Joseph Boles—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24031) granting an increase of pension to William H. Williamson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24032) granting an increase of pension to Andrew Watts—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24033) granting an increase of pension to Daniel W. Myers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24034) granting an increase of pension to Jonathan Huston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24035) granting an increase of pension to John G. Dale—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24036) granting an increase of pension to George T. Clausen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24037) granting an increase of pension to Christopher C. Estes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24038) granting an increase of pension to B. M. Laws—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24039) granting a pension to Lydia McKoin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24040) granting a pension to W. J. Collins—to the Committee on Pensions.

Also, a bill (H. R. 24041) granting a pension to Clifford Sweeten—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24042) granting a pension to Oscar Sweeten—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24043) granting a pension to Viola Shaw—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24044) granting a pension to Elizabeth Girard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24045) granting a pension to Sarah Highsmith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24046) granting a pension to B. F. Thompson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24047) granting a pension to Richard M. Goddy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24048) granting a pension to Prudence Simmons—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24049) to remove the charge of desertion from the record of George W. Terrell—to the Committee on Military Affairs.

By Mr. FOSTER of Vermont: A bill (H. R. 24050) granting an increase of pension to C. C. Sabin—to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 24051) granting an increase of pension to William H. Young—to the Committee on Invalid Pensions.

By Mr. GILHAMS: A bill (H. R. 24052) granting an increase of pension to Alvin E. Nishwitz—to the Committee on Invalid Pensions.

By Mr. HIGGINS: A bill (H. R. 24053) granting an increase of pension to Oscar E. Hildebrand—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24054) granting an increase of pension to Benjamin G. Barber—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24055) granting an increase of pension to George E. Leonard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24056) granting an increase of pension to Benajah E. Smith—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 24057) for the relief of James R. House—to the Committee on War Claims.

By Mr. HUGHES of New Jersey: A bill (H. R. 24058) granting an increase of pension to James Skrine—to the Committee to Invalid Pensions.

Also, a bill (H. R. 24059) granting an increase of pension to William H. Reinhart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24060) granting a pension to William Haley—to the Committee on Pensions.

Also, a bill (H. R. 24061) granting a pension to George Ihnath—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24062) granting a pension to Michael J. Tully—to the Committee on Pensions.

Also, a bill (H. R. 24063) granting a pension to Howard Farrell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24064) granting a pension to Marie Fraser—to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 24065) for the relief of the legal representatives of Jacob W. Staley, deceased—to the Committee on War Claims.

By Mr. HULL of Tennessee: A bill (H. R. 24066) for the relief of George A. Vandever—to the Committee on Military Affairs.

By Mr. JENKINS: A bill (H. R. 24067) granting a pension to Peter Andress—to the Committee on Invalid Pensions.

By Mr. KEIFER: A bill (H. R. 24068) granting an increase of pension to George W. Wilson—to the Committee on Invalid Pensions.

By Mr. KNAPP: A bill (H. R. 24069) for the relief of John T. Mott—to the Committee on Claims.

Also, a bill (H. R. 24070) for the relief of William D. Allen—to the Committee on Claims.

By Mr. KNOPF: A bill (H. R. 24071) granting an increase of pension to Christian Wendling—to the Committee on Invalid Pensions.

By Mr. KÜSTERMANN: A bill (H. R. 24072) granting an increase of pension to George William Northedge—to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 24073) granting an increase of pension to Adam F. Becker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24074) granting an increase of pension to Charles G. Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24075) granting a pension to Annie M. Tinsley—to the Committee on Invalid Pensions.

By Mr. LOUDENSLAGER: A bill (H. R. 24076) granting an increase of pension to Jacob L. Parker—to the Committee on Invalid Pensions.

By Mr. McCALL: A bill (H. R. 24077) granting a pension to Lucy A. Deering—to the Committee on Invalid Pensions.

By Mr. McGAVIN: A bill (H. R. 24078) granting an increase of pension to James Linnett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24079) granting an increase of pension to Orlando Van Buren—to the Committee on Invalid Pensions.

By Mr. McHENRY: A bill (H. R. 24080) granting an increase of pension to Elwood W. Coleman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24081) granting an increase of pension to Andreas Hirlinger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24082) granting an increase of pension to James W. Kearns—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24083) granting an increase of pension to Nathan Kaseman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24084) granting an increase of pension to Henry Kearns, alias Henry Wilson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24085) granting an increase of pension to Samuel Letteer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24086) granting an increase of pension to William H. Small—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24087) granting a pension to James F. Adams—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24088) granting a pension to Edwin R. Warburton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24089) granting a pension to Joseph Yeager—to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 24090) granting a pension to John Webb—to the Committee on Pensions.

By Mr. McKINNEY: A bill (H. R. 24091) granting an increase of pension to Milon L. Tompkins—to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 24092) to remove the charge of desertion from the record of William Birk—to the Committee on Military Affairs.

By Mr. MAYNARD: A bill (H. R. 24093) granting an increase of pension to Martha L. De Ryder—to the Committee on Naval Affairs.

By Mr. MOON of Pennsylvania: A bill (H. R. 24094) granting a pension to Ellen Murphy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24095) granting an increase of pension to Joseph S. Lechler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24096) granting a pension to James B. Coppuck—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24097) granting a pension to Mary Sullivan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24098) granting a pension to Emma Wagner—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 24099) for the relief of the estate of Aaron Murdock, deceased—to the Committee on War Claims.

Also, a bill (H. R. 24100) for the relief of the estate of Patrick Henry Watkins, deceased—to the Committee on War Claims.

Also, a bill (H. R. 24101) for the relief of the estate of William Roberts, deceased—to the Committee on War Claims.

Also, a bill (H. R. 24102) for the relief of James B. Hoge—to the Committee on War Claims.

Also, a bill (H. R. 24103) for the relief of the heirs of Thomas Penny, deceased—to the Committee on War Claims.

By Mr. OLCOTT: A bill (H. R. 24104) authorizing the Secretary of the Treasury to adjust and settle the account of James M. Willbur with the United States—to the Committee on Claims.

By Mr. RANSDELL of Louisiana: A bill (H. R. 24105) for the relief of the estate of T. J. Semmes, deceased—to the Committee on War Claims.

By Mr. SHERMAN: A bill (H. R. 24106) granting a pension to Ann Hickox—to the Committee on Invalid Pensions.

By Mr. SLAYDEN: A bill (H. R. 24107) for the relief of Davis W. Hatch—to the Committee on War Claims.

By Mr. SMITH of California: A bill (H. R. 24108) granting an increase of pension to Abram Storms—to the Committee on Invalid Pensions.

By Mr. SNAPP: A bill (H. R. 24109) granting a pension to Mary Hanna—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 24110) granting a pension to Bennett Whidden—to the Committee on Pensions.

Also, a bill (H. R. 24111) granting an increase of pension to Myrtle L. Hart—to the Committee on Invalid Pensions.

By Mr. SPERRY: A bill (H. R. 24112) granting an increase of pension to David S. Dort—to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 24113) granting an increase of pension to Henry J. Fuller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24114) granting an increase of pension to James A. Woodson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24115) granting an increase of pension to Mary B. Jenks—to the Committee on Invalid Pensions.

By Mr. THOMAS of Ohio: A bill (H. R. 24116) restoring to the pension rolls the name of Robert J. Scott—to the Committee on Invalid Pensions.

By Mr. WEISSE: A bill (H. R. 24117) granting an increase of pension to Charles Ward—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24118) granting an increase of pension to Byron T. Gibson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24119) granting an increase of pension to J. H. Heather—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24120) granting an increase of pension to John Neugebauer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24121) granting an increase of pension to Peter McHugh—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24122) granting a pension to Margaret Williamson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24123) granting an increase of pension to William Anglum—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24124) granting an increase of pension to George T. Kelly—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24125) granting an increase of pension to August Grupe—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 24126) for the relief of the estate of Ann M. Meehan, deceased—to the Committee on War Claims.

By Mr. WILSON of Illinois: A bill (H. R. 24127) granting an increase of pension to Thomas Jaworski—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24128) granting an increase of pension to John F. Barrow—to the Committee on Invalid Pensions.

By Mr. WOOD: A bill (H. R. 24129) granting a pension to Ellen Johnston—to the Committee on Invalid Pensions.

By Mr. BARCHFELD: A bill (H. R. 24130) authorizing the Secretary of War to adjust the claim of the Merritt & Chapman Wrecking Company—to the Committee on Claims.

Also, a bill (H. R. 24131) authorizing the Secretary of War to adjust the claim of the Merritt & Chapman Derrick and Wrecking Company—to the Committee on Claims.

Also, a bill (H. R. 24132) for the relief of John D. Toppin, passed assistant engineer, United States Navy, retired—to the Committee on Naval Affairs.

By Mr. SHACKLEFORD: A bill (H. R. 24133) granting an increase of pension to Eleanor A. McCardell—to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER of Missouri: Paper to accompany bill for relief of Edward B. Ward—to the Committee on Invalid Pensions.

By Mr. ALLEN: Petition of Walter H. Libby and 21 other citizens of Portland, Me., against Senate bill 3940 (religious observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. ANTHONY: Petitions of citizens of Atchison and citizens of Willard, against the passage of S. 3940 (proper observance of Sunday as a day of rest in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. ASHBROOK: Petition of Association of American Agricultural Colleges and Experiment Stations, for removal of duty on basic slag—to the Committee on Ways and Means.

Also, paper to accompany bill for relief of W. E. Tyler—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Annie Irvine (previously referred to the Committee on Pensions)—to the Committee on Invalid Pensions.

By Mr. BINGHAM: Petition of Board of Trade of Philadelphia, favoring Senate joint resolution No. 40, relative to transportation of material for the Panama Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. BRADLEY: Petition of J. W. Matthews & Co., of Newburgh, N. Y., for removal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. CHANEY: Paper to accompany bill for relief of Louis R. Edmunds—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Silas R. Houston—to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: Petition of sundry citizens of Hermann, Mo., asking for improvement of certain portions of Missouri and Gasconade rivers—to the Committee on Rivers and Harbors.

By Mr. DAWSON: Petition of 48 citizens of Davenport, Iowa, for legislation to pension members of the Telegraph Corps of the civil war—to the Committee on Invalid Pensions.

By Mr. DRAPER: Petition of A. E. Yoell, for Asiatic exclusion legislation—to the Committee on Immigration and Naturalization.

By Mr. DWIGHT: Petition of Theodore C. Thorpe, favoring removal of duty from raw and refined sugars—to the Committee on Ways and Means.

By Mr. ESCH: Petition of H. C. Weidenbacher, of Eau Claire, Wis., for repeal of duty on sugar—to the Committee on Ways and Means.

Also, petition of Philadelphia Board of Trade, favoring Senate joint resolution No. 40, relative to transportation of material for the Panama Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. FITZGERALD: Petition of River Improvement and Drainage Association, for the improvement of Sacramento River, California—to the Committee on Rivers and Harbors.

Also, petition of Asiatic Exclusion League, for the exclusion of Asiatics other than certain special classes—to the Committee on Immigration and Naturalization.

Also, petition of Tennie Alsberg and 71 others, citizens of Brooklyn, against S. 3940 (religious legislation in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. FLOYD: Paper to accompany bill for relief of John H. Gray (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. FOSS: Petition of citizens of Chicago, Ill., against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. FULLER: Paper to accompany bill for relief of William H. Young—to the Committee on Invalid Pensions.

Also, petition of J. J. Winter, of Garfield, Ill., against a parcels-post act—to the Committee on the Post-Office and Post-Roads.

Also, petition of Illinois Retail Jewelers' Association, of Chicago, favoring enactment of federal advertising law against fraudulent advertising—to the Committee on Interstate and Foreign Commerce.

Also, petition of Al F. Schoch, of National City Bank, of Ottawa, Ill., favoring tariff on zinc ore—to the Committee on Ways and Means.

By Mr. GRAHAM: Paper to accompany bill for relief of Albert E. Beatty (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. HAYES: Petition of R. W. Fuller and 47 other citizens of Stockton, Cal., favoring an effective Asiatic exclusion law against all Asiatics save merchants, students, and travelers—to the Committee on Foreign Affairs.

Also, petition of River Improvement and Drainage Association, of San Francisco, for appropriation to improve Sacramento and San Joaquin rivers—to the Committee on Rivers and Harbors.

By Mr. HIGGINS: Petition of J. B. Holl, of Willimantic, Conn., and Ernest C. Laboll, of Groton, Conn., against the passage of S. 3940 (proper observance of Sunday as a day of rest in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. HOUSTON: Paper to accompany bill for relief of Samuel S. George (H. R. 23590)—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: Petition of William White, president, and E. G. Locke, secretary, of Bingham Union, No. 67, International Wood Workers, and Paul G. Smith and Al Hansen, of Bingham Local Union, No. 93, for investigation and regulation of the Treadwell Mining Company, of Douglas Island, Alaska—to the Committee on Mines and Mining.

Also, petition of Asiatic Exclusion League, for more stringent exclusion laws against Asiatics—to the Committee on Immigration and Naturalization.

By Mr. HUGHES of New Jersey: Petition of citizens of New Jersey, favoring the creation of a department of education—to the Committee on Education.

Also, petition of citizens of New Jersey, favoring legislation to provide pension for the United States Military Telegraph Corps of the United States Army during civil war—to the Committee on Invalid Pensions.

By Mr. HUGHES of West Virginia: Petitions of the Chamber of Commerce of Huntington, W. Va., and of the Board of Trade of Elkins, W. Va., praying for legislation providing for the establishment of the Appalachian-White Mountain National Forest—to the Committee on Agriculture.

Also, petition of the Veteran Army of the Philippines, praying for the enactment of legislation recognizing August 13 as a legal holiday—to the Committee on Military Affairs.

By Mr. KAHN: Petition of Frank Thole and 47 other residents of Richmond, Cal., in favor of an exclusion law prohibiting entrance of all Asiatics into the United States—to the Committee on Foreign Affairs.

By Mr. KNAPP: Paper to accompany bill for relief of John T. Mott—to the Committee on Claims.

By Mr. LAFEAN: Papers to accompany bills for relief of John Cline (H. R. 22666), Lewis I. Renaut (H. R. 22663), James Miller, William H. Zeigler (H. R. 22661), James A. Poleman (H. R. 22667), and James Spealman (H. R. 22664)—to the Committee on Invalid Pensions.

By Mr. LASSITER: Petition of Veteran Army of the Philippines, for legislation making August 13 a legal holiday, to be known as "Occupation Day"—to the Committee on the Judiciary.

Also, petition of Roper & Co., of Petersburg, Va., for the removal of duty on sugars—to the Committee on Ways and Means.

By Mr. LINDBERGH: Petition of citizens of Stevens County, against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. LINDSAY: Petition of A. E. Yoell, for Asiatic exclusion law—to the Committee on Immigration and Naturalization.

Also, petition of citizens of New York, against enactment of the Johnston Sunday bill (S. 3940)—to the Committee on the District of Columbia.

Also, petition of River Improvement and Drainage Association, for improvement of Sacramento and San Joaquin rivers—to the Committee on Rivers and Harbors.

By Mr. LOUD: Petition of citizens of Cheboygan and Onaway, against S. 3940 (religious legislation in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. MAYNARD: Paper to accompany bill for relief of Martha L. De Ryder—to the Committee on Pensions.

By Mr. McCALL: Petition of ladies of Physiological Institute, of Boston, favoring legislation to suppress manufacture and sale of opium—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Reading, Mass., against Senate bill 3940, entitled "An act for proper observance of Sunday as day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. McHENRY: Petition of the Hooven Mercantile Company, of Sunbury, Pa., for removal of duty on sugars—to the Committee on Ways and Means.

By Mr. McKINNEY: Petition of residents of Milan, Ill., for relief from overflow of waters of Mill Creek—to the Committee on Rivers and Harbors.

By Mr. MOON of Tennessee: Papers to accompany bills in re war claims of James B. Hoge; estate of William Roberts, deceased; of Abner Louder; estate of Aaron Murdock, deceased; of George W. Penny and others; and of Patrick H. Watkins, deceased—to the Committee on War Claims.

By Mr. OLCOTT: Paper to accompany bill for relief of Charlotte Velle—to the Committee on Invalid Pensions.

By Mr. OVERSTREET: Petition of A. E. Yoell, for more stringent Asiatic exclusion law—to the Committee on Immigration and Naturalization.

By Mr. PATTERSON: Paper to accompanying H. R. 23934, for the relief of Harmony Lodge, No. 17, Ancient Free Masons, of Barnwell, S. C.—to the Committee on War Claims.

By Mr. POLLARD: Petition of Omaha Bar Association, favoring increase of salaries of United States circuit judges—to the Committee on the Judiciary.

Also, petition of residents of Auburn, Nebr., favoring the pensioning of members of the Military Telegraphers' Corps in civil war—to the Committee on Invalid Pensions.

By Mr. PRAY: Petition of citizens of Bozeman, against Senate bill 3940, entitled "An act for proper observance of Sunday as day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. RYAN: Petition of Chamber of Commerce of Buffalo, favoring removal of duty on barley—to the Committee on Ways and Means.

Also, petition of Chamber of Commerce of Buffalo, N. Y., favoring creation of a nonpartisan tariff commission—to the Committee on Ways and Means.

Also, petition of Chamber of Commerce, Buffalo, N. Y., for increase of salaries of United States district court judges—to the Committee on the Judiciary.

Also, petition of bar association of Erie County, N. Y., for legislation increasing salaries of district court judges—to the Committee on the Judiciary.

By Mr. SHERMAN: Papers to accompany bill granting a pension to Ann Hickox—to the Committee on Invalid Pensions.

Also, petition of citizens of Utica, N. Y., for the removal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. SLAYDEN: Petition of citizens of San Antonio, Tex., against the Johnston bill (S. 3940), providing for religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, paper to accompany bill for relief of David W. Hatch—to the Committee on War Claims.

By Mr. SMITH of Texas: Petition of citizens of Texas, against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. SPARKMAN: Petitions of citizens of Plant City, citizens of Bartow, and citizens of Manatee County, all in the State of Florida, against Senate bill 3940, entitled "An act for proper observance of Sunday as a day of rest in the District of Columbia"—to the Committee on the District of Columbia.

By Mr. UNDERWOOD: Petition of citizens of Alabama, against S. 3940 (religious observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. VREELAND: Petition against S. 3940 (Sunday observance in the District of Columbia)—to the Committee on the District of Columbia.

By Mr. WANGER: Petition of Philadelphia Board of Trade, for S. 40, providing for transportation by sea of material and equipment for use in construction of the Panama Canal—to the Committee on Interstate and Foreign Commerce.

By Mr. WHEELER: Petition of Smith, Horton & Co., favoring removal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. WILLIAMS: Paper to accompany bill for relief of estate of Ann M. Meehan—to the Committee on War Claims.

By Mr. WOOD: Paper to accompany bill for relief of Ellen Johnson—to the Committee on Invalid Pensions.

By Mr. WOODYARD: Petition of J. S. Moore and Shattuck & Jackson Company, wholesale grocers of Parkersburg, W. Va., for removal of duty on sugar—to the Committee on Ways and Means.

SENATE.

TUESDAY, *December 15, 1908.*

The Senate met at 12 o'clock m.

Prayer by the Chaplain, Rev. Edward Everett Hale.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BURROWS, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

ELECTORAL VOTE OF MONTANA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice-President appointed in the State of Montana, which, with the accompanying paper, was ordered to be filed.